Texas Board of Professional Engineers

Self-Evaluation Report

Submitted to the
Sunset Advisory Commission
Revised: June 4, 2002

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Texas Board of Professional Engineers
Self-Evaluation Report

I. Key Functions, Powers, and Duties

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

Mission

The mission of the Texas Board of Professional Engineers is to protect the health, safety, and welfare of the people in Texas by ensuring that the practice of engineering in the state is carried out only by those persons who are proven to be qualified and by regulating the practice of professional engineering in Texas.

Duties and Powers

The agency's duties are to administer the provisions of the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a. The Act provides the Board with the authority and power to make and enforce all rules, regulations, and bylaws necessary for the performance of its duties and to regulate the practice of engineering in Texas. The Act requires the licensure of nonexempt engineers providing engineering services in Texas, and requires registration of engineering firms, sole proprietorships, partnerships, corporations and joint stock associations engaged in the practice of professional engineering for the public of Texas. The Act empowers the Board to investigate suspected violations of the Act or Board Rules, initiate administrative enforcement proceedings, and refer matters for civil or criminal action.

Functions

The Licensing Division ensures that all applicants for licensure as a professional engineer meet the minimum education, experience, and examination criteria established by the Act and Board Rules. The division provides licensing assistance to all applicants, conducts a detailed review and evaluation of all applications and, twice yearly, administers two eight-hour national engineering examinations. The division also registers all engineering firms, sole proprietorships, partnerships, corporations and joint stock associations. Applications handled by the program resulted in 1,643 new licenses issued in fiscal year 2001. The division was also responsible for the administration of 4,361 engineering examinations in fiscal year 2001. The firm registration program became effective January 1, 2000. To date, over 4,627 entities have registered with the Board.

The Administrative Services Division is responsible for notifying every individual licensed under the Act the date the license is due to expire and the amount of the annual renewal fee. During fiscal year 2001, this program processed 47,970 annual license renewals. The division also maintains the professional engineer database, performs all record-keeping functions for the agency, maintains the agency's Web site, periodically disseminates information bulletins to all licensees.

The Compliance Assistance Division is responsible for enforcement of the Act. The division accomplishes this mandate to protect the public from harm or loss through investigation of alleged illegal or incompetent practice of engineering or misconduct by licensees. Voluntary compliance is sought first, followed by administrative or court action when necessary. Investigations, followed by due process, are conducted to consider punitive remedy by the Board.

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

Yes, the enabling statute allows the agency to fulfill its mission, key functions, powers and duties. The agency has provided suggested alterations to the statute in the *Policy Issues Section* of this document.

C. Please explain why these functions are needed. Are any of these functions required by federal law?

Incompetent or flawed engineering has the potential of causing catastrophic harm to the public. The functions described in *Section A.* are all key components of regulating the practice of professional engineering in order to protect the health, safety and welfare of the people of Texas.

None of the agency's functions are required by federal law.

D. In general, how do other states carry out similar functions?

All states generally have similar practice acts and functions, but the way in which these functions are administered may differ slightly between states. The National Council of Examiners for Engineering and Surveying (NCEES), an organization made up of all states and other jurisdiction engineering licensing boards, has developed a Model Law as a guideline for all state boards to incorporate in their regulatory functions.

E. Describe any major agency functions that are outsourced.

The Board outsources information technology functions and utilizes the services of Northrop Grumman Technology Services, Inc., which is under the purview of the Department of Information Resources, to maintain the agency databases and make necessary program changes to support the agency functions. In 1989, the Board entered into an interagency contract with the Murdough Center for Engineering Professionalism at Texas Tech University to implement and administer the Board's professionalism and ethics program and to administer its professionalism and ethics correspondence course to respondents of enforcement cases who agree to take the course to resolve certain compliance rulings.

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.

There are no changes to federal law or outstanding court cases that would impact the agency's key functions.

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Open Records Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1997 – 2001, or earlier significant Attorney General opinions, that affect the agency's operations.

Texas Board of Professional Engineers **Exhibit 1: Statutes/Attorney General Opinions**	
Statutes	
Citation/Title	**Authority/Impact on Agency**
The Texas Engineering Practice Act Texas Civil Statutes, Article 3271a	Creates the Texas Board of Professional Engineers and provides for the administration and enforcement of the provisions of the Act.
Attorney General Opinions	
Attorney General Opinion No.	**Impact on Agency**
Opinion No. MW-384	Clarified the Act and determined that it does not exempt persons employed in industry as engineers from the operations of the Act.
Opinion No. MW-568	Clarified the use of the title "Architectural Engineer" that an engineer registered under the Act but not under the Architects Registration Law does not violate article 249a, V. T.C.S. (Architect's Law)
Opinion No. JM-290	Determined that the license of an engineer shall be revoked upon his conviction of a felony while so licensed. This opinion was followed up to state that the conviction must include incarceration.
Opinion No. JM-457	Determined that the Board is not conferred authority by the Texas Engineering Practice Act to promulgate its proposed amendment to Board Rule 131.151 revising Disciplinary Rule 5.4 regarding competitive bids.
Opinion No. JM-693	Determined that the Act does not apply to design work done by licensed air conditioning contractors under Article 8861, V.T.C.S., the Air Conditioning Contractor License Law.
Letter Opinion No. 89-040	Determined that the $110 increase in the annual renewal fee was constitutional.
Opinion No. JM-1189	Determined that the commissioners court is prohibited from awarding design-build contracts for the construction of a public work on the basis of competitive bids where architectural or engineering services comprise a component of the contract.
Opinion No. DM-92	Granted the Board authority to set renewal fees for individuals that are 65 years of age or older.

Opinion No. DM-161	Determined that Section 16 of Article 249a, V.T.C.S., the statute regulating the practice of architecture, does not bar a professional engineer licensed under Article 3271a, V.T.C.S., from preparing plans and specifications, the preparation of which requires the application of engineering principles and the interpretation of engineering data, for "a new building that is to be constructed and owned by a state agency, a political subdivision of this state, or any other public entity in this state if the building will be used for education, assembly, or office occupancy and the construction cost exceed $100,000."
Opinion No. JC-0020	Determined that Chapter 366 of the Health and Safety Code relating to the regulation of on-site sewage disposal systems, does not expressly or by necessary implication authorize the Texas Natural Resource Conservation Commission to regulate "site evaluators."
Opinion No. JC-0390	Established an exemption from the licensure of engineers practicing under contracts for the federal government. It also established that a corporation and its divisions and independent contractors are not required to register as a firm based on engineering performed pursuant to such contracts for the federal government.

H. Please fill in the following chart:

Texas Board of Professional Engineers Exhibit 2: Agency Contacts			
	Name	**Address**	**Telephone Number Fax Number E-mail Address**
Agency Head	Victoria J.L. Hsu, P.E. Executive Director	1917 IH-35 South Austin, TX 78741	(512) 440-3050 (512) 440-0417 victoria.hsu@tbpe.state.tx.us
Agency's Sunset Liaison	Barbara H. Owens General Counsel	1917 IH-35 South Austin, TX 78741	(512) 440-3076 (512) 440-0417 Barbara.owens@tbpe.state.tx.us

II. History and Major Events

Provide a timeline discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

The agency was created in 1937 by the 45th Legislature, Regular Session, in the aftermath of the New London School explosion in which nearly 300 students and teachers were killed and was originally known as the State Board of Registration for Professional Engineers. The Legislative intent, as specified in Section 1.1 of the Act, states in part, " . . . in order to protect the public health, safety and welfare, that the privilege of practicing engineering be entrusted only to those persons duly licensed and practicing under the provisions of this Act and that there be strict compliance with and enforcement of all the provisions of this Act . . ." Section 1.1 of the Act also reserves the use of the title "engineer" for only those individuals duly licensed to practice engineering in Texas. The Act created the original policymaking body, which was composed of six licensed professional engineers appointed by the Governor, with concurrence by the Senate, who served six-year staggered terms.

In 1965, the original scope of the Board's authority was altered when the 59th Legislature extended the categories of persons exempted from the Act, the most significant being the employees of private industry. This exemption was sought primarily by industry, which viewed the earlier licensure requirement as unnecessarily restrictive. The Board's enforcement authority was also strengthened at that time to make it easier for the Board to obtain an injunction against a person practicing professional engineering without a license and provided for the suspension or revocation of a license for any violation of the Act.

In 1981, the 67th Legislature changed the composition of the Board's policymaking body to include three public members who participate in all Board matters except the review of applications for licensure. Other significant alterations to the statute in 1981 included:

- removal of the provisions requiring the Board to proceed upon sworn information when investigating charges against a licensee;

- removal of the state residency requirements for persons filing complaints;

- provided for intermediate penalties specifically authorizing the Board to issue formal and informal reprimands;

- added the provision authorizing the Board to promulgate rules restricting competitive bidding, and included a provision preventing the Board from adopting rules restricting advertising by licensees

except to prohibit false, misleading, or deceptive practices by licensees.

- Section 22a concerning information files relative to the complaints against licensees, and

- Section 22b concerning consumer information describing the regulatory functions of the Board and the Board's procedures by which consumer complaints are filed and resolved were added to the Act.

In 1987, the 70th Legislature amended the Act by providing a five-year notification period that significant changes to strengthen the licensing and educational requirements would become effective September 1, 1992. Prior to 1992, applications were evaluated based on education and experience. Examinations were not required for licensure. This made it difficult or in some cases impossible for a Texas professional engineer to become licensed in another state. Consequently, Section 12 of the Act was revised and now requires graduation from an approved curriculum in engineering or a related science and passage of both the Fundamentals of Engineering and the Principles and Practice of Engineering examinations in order for engineers to become licensed in Texas. A five-year notification period was also provided concerning certification as an engineer-in-training set forth in Section 12.1, which incorporated the same educational requirements and passage of the Fundamentals of Engineering examination.

In 1991, the 72nd Legislature increased the maximum amount the Board could charge for an examination to $100. In addition, the Legislature added Section 13B to the Act, which increased the license, the annual renewal and the reciprocal license fees authorized in Section 13(b) of the Act by $200. This "professional fee" is a "pass through" fee and goes directly to the General Revenue Fund. It is not for use by the Board in its operations. This increase resulted in Texas' licensing and renewal fees becoming among the highest in the nation whereas they were previously among the lowest.

In 1991, the Legislature also altered the agency's Sunset Review date from September 1, 1993 until September 1, 2003, due to the agency's esteemed reputation for being a well-administered and efficient regulatory agency.

In 1991, the Texas Board was the first state to promote and develop mutual agreements with Canada and Mexico that addressed academic and professional engineering practice issues in order to implement the North American Free Trade Agreement (NAFTA). An engineering roundtable meeting between Texas engineers and engineers from Mexico was held in June 1992 and subsequent meetings were held in November 1992 and June 1993. The Canadian Council of Professional Engineers was invited to send delegates to these subsequent meetings. These meetings resulted in the formation of the "NAFTA Forum on Engineering Practice." This forum was made up of six official representatives from each nation. The delegation from the United States consisted of two representatives from the Accreditation Board for Engineering and Technology (ABET), the National Society of Professional Engineers (NSPE), and the National Council of Examiners for Engineering and Surveying (NCEES) and was known as the United States Council for International Engineering Practice. One of the NSPE representatives was a past president of the Texas Society of Professional Engineers (TSPE) and the Chairman of the Texas Board. Six additional meetings were held between August 1993 and January 1995, which resulted in the creation of the Mutual Recognition Document (MRD). In June 1995, all 18 representatives met in Washington, DC, and signed the MRD. On November 18, 1996, a Letter of Intent to Implement the NAFTA Mutual Recognition Document was signed by the Chairman and Executive Director of the Texas Board in the Governor's Office. Texas Governor George W. Bush witnessed this historic event. All three nations were represented as well as members and staff of the Texas Board, engineering societies and associations, and the National Council of Examiners for Engineering and Surveying.

In 1993, the 73rd Legislature authorized the Board to issue subpoenas to witnesses in order to successfully enforce the provisions of the Act.

In 1995, the Board implemented a six-year voluntary Continuing Professional Competency program for professional engineers. Approximately ten percent of the licensees participated in the voluntary program.

In 1997, the 75th Legislature modified numerous sections of the Act and the name of the agency was changed to the Texas Board of Professional Engineers. All language pertaining to "registration" and "registered" was changed to "licensure" and "licensed." The maximum examination fee was increased from $100 to $120 and the Board was authorized to adopt reduced licensure and annual renewal fees for licensed engineers who are disabled and not engaged in the active practice of engineering.

Other significant changes in 1997 included amendments to:

- Section 12 authorizing the Board to adopt rules providing for the waiver of all or part of the examination requirement to permit the issuance or reissuance of a license to an applicant so long as the applicant does not pose a threat to the public health, safety and welfare.

- Section 18 prohibiting any person, persons, or business entity from holding itself out to the public or any member thereof as being engaged in the practice of engineering unless any and all services are performed or done by a licensed engineer or under the direct supervision of a licensed engineer who is a regular full-time employee of the firm, partnership, association, corporation, or other business entity, but does not prohibit a licensed engineer from performing engineering services on a part-time basis.

- Section 20 deleting the provisions contained in Subsections (a) and (b) that established an exemption from the licensure requirements for certain persons who were not residents of or had an established place of business in this state and recodified the section.

- Section 20 adding the provisions contained in Subsection (k) that the Act does not prevent, limit, or restrict a person licensed as an architect, landscape architect, or interior designer under the laws of this state from performing an act, service, or work that is within the definitions of the person's practice as an architect under Article 248a, V.T.C.S., as a landscape architect under Article 249c, V.T.C.S., or as an interior designer under Article 249e, V.T.C.S.

- Section 20 adding the provision contained in Subsection (f)(l) that the Act does not apply to a regular full-time employee of a private corporation or other private business entity engaged in erecting, constructing, enlarging, altering, repairing, rehabilitating, or maintaining an improvement to real property in accordance with plans and specifications that bear the seal of a licensed engineer. This exemption includes the use of job titles and personnel classifications by the employee that are not in connection with any offer of engineering services to the public.

- Section 22 authorizing the Board to adopt rules permitting the Board to review the status of a license holder who the Board believes may have been issued a license through fraud or error or who may constitute a threat to the public health, safety and welfare, and authorizes the Board to suspend or revoke the license held by a person whose status is reviewed under this section.

- Section 22A requiring the Board to adopt rules that permit the Board to receive and investigate confidential complaints against license holders or any other person who may have violated the Act. The Board is required to maintain the confidentiality of the complaint during the investigation of the complaint. The Board is further required to protect the anonymity of a person who makes an anonymous complaint and maintain the confidentiality of the complaint during the investigation of the complaint.

- Section 22C was added authorizing the Board to impose an administrative penalty against a person licensed under the Act or any other person or entity that violates the Act or a rule or an order adopted under the Act; established the due process procedures relative to the assessment of an administrative penalty; and required that the penalty collected under the section be deposited to the General Revenue Fund, except for the portion of the penalty that constitutes reimbursement for the performance of the Board's regulatory functions.

In 1999, two significant bills were enacted by the 76th Legislature that affected the Board. House Bill 1544 authorized the Board to provide the engineer roster in an online computer database format. The roster of engineers is now available by accessing the Board's Web site. House Bill 544 also required that the Board implement the firm registration program. All sole proprietorships, firms, partnerships, corporations, and joint stock associations engaged in the practice of professional engineering for the public are required to register with the Board on an annual basis for a fee not to exceed $100. Senate Bill 1438 created a four-year pilot project wherein the Texas Board of Professional Engineers, the Texas State Board of Public Accountancy and the Texas Board of Architectural Examiners were changed to a self-directed, semi-independent status and removed from the legislative appropriations process. However, due to several unforeseen issues concerning the repository of the agency's funds, the Board was not able to implement the pilot project in September 1999.

During the 77th Legislature, two bills were enacted that resulted in changes to the Texas Engineering Practice Act and the operations of the Board. Senate Bill 1797 became effective June 17, 2001, which exempts engineering professors from the licensure requirements of the Act if they are performing research or instructional work within the scope of their institution of higher education. The bill also provides that the teaching of engineering may not be considered as the practice of engineering. The bill does not exempt engineering educators offering engineering consulting services to the public in Texas. To promote licensure among engineering faculty, the Board has simplified the application process for engineering educators. Senate Bill 736 became effective September 1, 2002, and provides the mechanisms necessary for the Board to implement the self-directed, semi-independent (SDSI) Pilot Project originally established by the enactment of Senate Bill 1438, 76th Legislature. This legislation removes the Board from the legislative appropriation process and allows it to operate outside the provisions of the General Appropriations Act and exercise autonomy over its operations during the two-year period. The Board's primary goals under the SDSI project are to provide exceptional customer service and to develop alternative methods to increase its efficiency and effectiveness in the delivery of its services to the regulated community and general public. This pilot project does not alter the mission of the Board nor does it remove it from compliance with the Government Code including the Texas Open Meeting Act and the Public Information Act, and the governor will continue to appoint the Board Members.

III. Policymaking Structure

A. Please complete the following chart:

Texas Board of Professional Engineers **Exhibit 3: Policymaking Body**				
Member Name James R. Nichols, P.E. Board Chair	**Term Expires:** Sept. 26, 2003 **Appointment Date:** Feb. 24, 2000 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Freese & Nichols, Inc. 4055 International Plaza, Ste. 200 Fort Worth, TX 76109	**Telephone Number** (817) 735-7231 **Fax Number** (817) 735-7490 **E-mail Address** jrn@freese.com
Member Name Brenda Bradley Smith, P.E. Board Secretary	**Term Expires:** Sept. 26, 2003 **Appointment Date:** Dec. 31, 1997 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Alexander Engineering, Inc. 400 Randal Way, Ste. 200 Spring, TX 77388	**Telephone Number** (281) 350-7027 **Fax Number** (281) 350-7035 **E-mail Address** bbradley@aeiengr.com
Member Name Robert M. Sweazy, Ph.D., P.E. Member	**Term Expires:** Sept. 26, 2005 **Appointment Date:** Feb. 23, 2000 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Office of Research & Graduate Studies Texas Tech University Box 41075 15th & University Avenue Lubbock, TX 79409-1075	**Telephone Number** (806) 742-3905 **Fax Number** (806) 742-3947 **E-mail Address** bob.sweazy@ttu.edu
Member Name E.D. "Dave" Dorchester, P.E. Member	**Term Expires:** Sept. 26, 2001 **Appointment Date:** Jan. 29, 1996 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** 1902 Sparks Midland, TX 79705	**Telephone Number** (915) 682-8426 **Fax Number** N/A **E-mail Address** dandm@usaonline.net
Member Name Edmundo R. Gonzalez, Jr., P.E. Member	**Term Expires:** Sept. 26, 2001 **Appointment Date:** Jan. 25, 1996 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Gonzalez Engineering & Surveying, Inc. P. O. Box 3104 Brownsville, TX 78523	**Telephone Number** (956) 546-5515 **Fax Number** (956) 546-2804 **E-mail Address** gonzalez.edmundo@worldnet.att.net

Member Name Govind Nadkarni, P.E. Member	**Term Expires:** Sept. 26, 2005 **Appointment Date:** Mar. 6, 2000 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Govind & Associates, Inc. P.O. Box 9094 Corpus Christi, TX 78469	**Telephone Number** (361) 289-1385 **Fax Number** (361) 289-0712 **E-mail Address** govind@govindengr.com
Member Name Danny R. Perkins Member	**Term Expires:** Sept. 26, 2001 **Appointment Date:** Jan. 25, 1996 **Appointed by:** Governor George W. Bush	**Qualification** Public Member	**Address** ESC Polytech Consultants, Inc. 6880 Telephone Rd., Ste. 202 Houston, TX 77061	**Telephone Number** (713) 645-5155 **Fax Number** (713) 645-4411 **E-mail Address** perk@hal-pc.org
Member Name Vicki T. Ravenburg, CPA Member	**Term Expires:** Sept. 26, 2005 **Appointment Date:** Feb. 23, 2000 **Appointed by:** Governor George W. Bush	**Qualification** Public Member	**Address** Sagebiel, Ravenburg and Schuh, P.C. 7800 IH-10 West, Ste. 630 San Antonio, TX 78230	**Telephone Number** (210) 979-7600 **Fax Number** (210) 979-7679 **E-mail Address** vickir@srscpas.com
Member Name Robert M. Sweazy, Ph.D., P.E. Member	**Term Expires:** Sept. 26, 2005 **Appointment Date:** Feb. 23, 2000 **Appointed by:** Governor George W. Bush	**Qualification** Professional Engineer	**Address** Office of Research Services Texas Tech University Box 41075 Lubbock, TX 79409	**Telephone Number** (806) 742-3905 **Fax Number** (806) 742-3947 **E-mail Address** bob.sweazy@ttu.edu
Member Name Public Member VACANT	**Term Expires:** **Appointment Date:** **Appointed by:**	**Qualification** Public Member	**Address**	**Telephone Number** **Fax Number** **E-mail Address**

B. How is the chair of the policymaking body appointed?

The Board Chair is elected by the members of the Board and serves from September 1 through August 31.

C. Describe the primary role and responsibilities of the policymaking body.

The Texas Board of Professional Engineers is responsible for protecting the health, safety and welfare of

the citizens of Texas by establishing the policies and procedures for administering the provisions of the Act.

D. List any special circumstances or unique features about the policymaking body or its responsibilities.

Section 4 of the Act prohibits a person from being eligible for appointment as a public member if the person and the person's spouse are licensed by an occupational regulatory agency in the field of engineering, employed by or participates in the management of an agency or business entity related to the field of engineering, or have a financial interest in a business entity related to the field of engineering.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2000? In FY 2001?

Generally, the Board meets four times a year. In fiscal year 2000, the Board met in four regular meetings on the following dates: September 9 and 10, 1999, December 10, 1999, March 10, 2000, and June 14, 2000. Two special called meetings were also held on October 21, 1999, and January 11, 2000. In fiscal year 2001, the Board met four times on the following dates: September 8, 2000, December 8, 2000, March 15, 2001, and June 13, 2001.

F. What type of training do the agency's policymaking body members receive?

Board members receive training regarding the Open Meetings Act, the Public Information Act, and the Administrative Act through conferences sponsored by the Office of the Attorney General. They also receive training on state ethics laws through programs sponsored by the Texas Ethics Commission and training on issues relevant to policymaking bodies through conferences sponsored by the Governor's Office.

G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.

Policies describing the respective responsibilities of the Board and staff are contained in the Act and the Board Rules of Practice and Procedure. Sections 7, 8, 9 of the Act and Board Rules 131.1 through 131.22 address the respective roles of the Board and agency staff.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example.

Texas Board of Professional Engineers
Exhibit 4: Subcommittees and Advisory Committees

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
General Issues Committee	Four plus one alternate member/The Board Chair appoints the committee members. The Board Vice-Chair serves as the Chair of this Committee.	Evaluates and develops proposed actions for the full Board concerning engineering ethics, professionalism in practice, legislation, board management, engineering business issues, education and continuing professional competency. May refer an issue to another Board committee.	Chapter 131. Practice and Procedure, Subchapter A. Bylaws and Definitions, §131.20(b)
Licensing Committee	Four plus one alternate member/The Board Chair appoints the Chair of the Committee and the members.	Evaluates issues and develops proposed actions for the full Board concerning licensing of engineers, conducting personal interviews of applicants, evaluating applications, participating in national and international engineering licensing activities on the Board's behalf, and providing general guidance to the executive director on licensing issues.	Chapter 131. Practice and Procedure, Subchapter A. Bylaws and Definitions, §131.20(a)(1)
Enforcement Committee	Four plus one alternate member/The Board Chair appoints the Chair of the Committee and the members.	Evaluates issues and develops proposed actions for the full Board concerning enforcement of the Act, reviewing the progress of major enforcement cases or groups of cases, suggesting sanctions for violations of the Act, participation in national and international engineering law enforcement activities on the Board's behalf, and providing general guidance to the executive director on enforcement issues.	Chapter 131. Practice and Procedure, Subchapter A. Bylaws and Definitions, §131.20(a)(2)

Industry Advisory Committee	The Board solicits 15-20 voluntary members who represent the engineering industry.	Provides guidance and assistance concerning engineering issues relative to the profession.	N/A Members serve on a voluntary basis. The Board does not fund the Committee meetings nor does the Board reimburse the members.
Education Advisory Committee	The Committee is comprised of 22 engineering deans and four at-large members.	Provides guidance and assistance concerning engineering education issues.	N/A Members serve on a voluntary basis. The Board does not fund the Committee meetings nor does the Board reimburse the members.

I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

Board members and staff receive written comments as well as e-mail, faxes, and other communications from engineering associations, societies and other stakeholders concerning issues that are subject to the Board's jurisdiction. The Board maintains close contact with its special interest groups and other state agencies through conferences or meetings to obtain comments as part of its continuing outreach efforts. Issues or comments raised are either assigned to a specific committee for consideration and subsequent recommendation to the full Board or may be considered by the full Board at the regular quarterly meetings. Board meetings and the promulgation of Board Rules are conducted in accordance with the Government Code, Chapters 2001 and 2002 (Administrative Procedure Act and Texas Register and Administrative Code).

Board members and staff are also frequently asked to speak at engineering society or association meetings and offer to receive comments and suggestions at these meetings.

IV. Funding

A. Describe the agency's process for determining budgetary needs and priorities.

The agency's biennial Strategic Plan and Legislative Appropriations Request are prepared and submitted to the respective legislative offices. The Executive Director, Executive Assistant, Director of Licensing, Director of Compliance Assistance, Director of Administrative Services, and other senior staff members meet weekly to discuss pertinent issues concerning the agency and set agency priorities. The results of these meetings form the basis for anticipated changes to the agency's strategic plan and budget. These changes are incorporated in the Strategic Plan and Legislative Appropriations Request.

PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.

B. Show the agency's sources of revenue. Please include all local, state, and federal sources. See Exhibit 5 Example.

Texas Board of Professional Engineers
Exhibit 5: Sources of Revenue – Fiscal Year 2001 (Actual)

Source	Amount
General Revenue Fund:	
Regular Appropriation	$1,465,773
Article IX, Section 9-11.06 Salary Increase	$27,600
Appropriated Receipts	$16,352
Interagency Contracts	$37,500
TOTAL	$1,547,225

C. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 6 Example.

Texas Board of Professional Engineers
Exhibit 6: Federal Funds — Fiscal Year 2001 (Actual)

Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A				
TOTAL		N/A	N/A	N/A

D. Show the agency's expenditures by strategy. See Exhibit 7 Example.

Texas Board of Professional Engineers Exhibit 7: Expenditures by Strategy — Fiscal Year 2001 (Actual)	
Goal/Strategy	**Amount**
Goal A. Competent Licensees	
Licensing & Evaluation	$469,614
Examinations*	$272,077
Registry Services	$483,190
Goal A. Total	$1,224,881
Goal B. Enforce Engineering Act	
Enforcement	$419,725
GRAND TOTAL:	$1,644,606

*The examinations strategy is for the sole purpose of purchasing, grading, and administering the national engineering examinations provided by the NCEES. This strategy is an estimated and non-transferable appropriation.

E. Show the agency's expenditures and FTEs by program. See Exhibit 8 Example.

Texas Board of Professional Engineers Exhibit 8: Expenditures and FTEs by Program — Fiscal Year 2001 (Actual)					
Program	**Budgeted FTEs, FY 2001**	**Actual FTEs as of August 31, 2001**	**Federal Funds Expended**	**State Funds Expended**	**Total Actual Expenditures**
Licensing & Evaluation	7	7	0	$469,614	$469,614
Examinations*	0	0	0	$272,077	$272,077
Registry Services	8	8	0	$483,190	$483,190
Enforcement	8	8	0	$419,725	$419,725
TOTAL	23	23	0	$1,644,606	$1,644,606

*These services are funded through the Licensing and Evaluation function.

F. If applicable, please provide information on fees collected by the agency. See Exhibit 9 Example.

Texas Board of Professional Engineers Exhibit 9: Fee Revenue and Statutory Fee Levels — Fiscal Year 2001				
Description/ Program/ Statutory Citation	**Current Fee/ Statutory maximum**	**Number of persons or entities paying fee**	**Fee Revenue**	**Where Fee Revenue is Deposited** (e.g., General Revenue Fund)
Article 3271a, §13(b), License Fee	$50/$50	1,724	$86,200	General Revenue Fund
Article 3271a, §13)b), Annual Renewal Fee	$30/$75	47,970	$2,590,372	General Revenue Fund
Article 3271a, §13(b), Duplicate License Fee	$3/$5	197	$592	General Revenue Fund
Article 3271a, §13(b), Engineer-in-Training Certificate	$5/$15	1,445	$7,225	General Revenue Fund
Article 3271a, §13(b), Roster of Engineers	$5/$10	12	$60	General Revenue Fund
Article 3271a, §13(b), Examination Fee Fundamentals Exam-Students Fundamentals Exam-Graduates Principles & Practice Exam	 $35/$200 $50/$200 $95/$200	 1,924 1,561 876	 $67,350 $78,090 $83,260	General Revenue Fund
Article 3271a, §13(b), Registration Fee for Engineering Firm & Firm Renewal Fee	$75/$100	2,209	$165,675	General Revenue Fund
Article 3271a, §16, Renewal Penalty Fee Expired No Longer Than 90 Days Expired Longer Than 90 up to Two Years	 $20 $40 No Statutory Limit-Set by the Board		$96,960	General Revenue Fund
Article 3271a, §13B, Increase in Fees	$200	31,100	$6,465,075	General Revenue Fund
Total			$9,640,859	General Revenue Fund

G. Please fill in the following chart. See Exhibit 10 Example.

Texas Board of Professional Engineers Exhibit 10: Purchases from HUBs				
FISCAL YEAR 1999				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	$1,860	$0	0%	57.2%
Professional Services	$14,239	$0	0%	20.0%
Other Services	$314,284	$1,764	.561%	33.0%
Commodities	$35,408	$23,681	66.8%	12.6%
TOTAL	$365,793	$25,446	6.95%	
FISCAL YEAR 2000				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	$6,392	$1,322	20.6%	57.2%
Professional Services	$9,628	$0	0%	20.0%
Other Services	$353,497	$6,001	1.69%	33.0%
Commodities	$50,107	$31,722	63.3%	12.6%
TOTAL	$419,626	$39,046	9.3%	
FISCAL YEAR 2001				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	$12,220	$55	.45%	57.2%
Professional Services	$6,218	$0	0%	20.0%
Other Services	$435,637	$412	.0949%	33.0%
Commodities	$51,693	$21,187	40.9%	12.6%
TOTAL	$505,770	$21,655	4.28%	

H. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?

Yes, the agency has a HUB policy. Even though the agency is operating under the self-directed semi independent project, it still uses the guidelines established by the Texas Building and Procurement Commission (TBPC). The agency typically makes purchases in four categories: special trades, professional services, other services and commodities. Performance shortfalls are addressed in the HUB policy, which specifically addresses the sole source acquisition of the national engineering examinations under the other services category. This sole source acquisition represents almost one half of the total amount expended each fiscal year. As a small agency, most products are purchased from the contracts administered by the TBPC.

V. Organization

A. Please fill in the chart below. If applicable, list field or regional offices. See Exhibit 11 Example.

Texas Board of Professional Engineers Exhibit 11: FTEs by Location — Fiscal Year 2001			
Headquarters, Region, or Field Office	**Location**	**Number of Budgeted FTEs, FY 2001**	**Number of Actual FTEs as of August 31, 2001**
Headquarters	Austin	23	23
	TOTAL	23	23

B. What was the agency's FTE cap for FY 2001?

25

C. How many temporary or contract employees did the agency have as of August 31, 2001?

One

D. Please fill in the chart below. See Exhibit 12 Example.

Texas Board of Professional Engineers Exhibit 12: Equal Employment Opportunity Statistics							
FISCAL YEAR 1999							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	2	0	5%	0	8%	4.3%	26%
Professional	11	4.3%	7%	4.3%	7%	30.4%	44%
Technical	N/A	N/A	13%	N/A	14%	N/A	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	8	13%	25%	13%	30%	30.4%	55%
Administrative Support	2	0	16%	8.7%	17%	8.7%	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%

Texas Board of Professional Engineers Exhibit 12: Equal Employment Opportunity Statistics (cont.)							
FISCAL YEAR 2000							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	1	0	5%	0	8%	4.3%	26%
Professional	12	4.3%	7%	4.3%	7%	26%	44%
Technical	N/A	N/A	13%	N/A	14%	N/A	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	5	8.7%	25%	13%	30%	21.7%	55%
Administrative Support	5	8.7	16%	8.7%	17%	21.7%	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%
FISCAL YEAR 2001							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	1	0	5%	0	8%	4.3%	26%
Professional	11	4.3%	7%	4.3%	7%	26%	44%
Technical	N/A	N/A	13%	N/A	14%	N/A	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	8	8.7%	25%	13%	30%	21.7%	55%
Administrative Support	4	8.7%	16%	8.7%	17%	21.7%	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%

E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?

Yes, the agency has an equal employment opportunity policy. The performance shortfalls related to equal employment opportunity policy are addressed in the agency's affirmative action plan approved by the Texas Commission on Human Rights.

VI. Guide to Agency Programs

LICENSING & EVALUATION

A. Please complete the following chart.

Texas Board of Professional Engineers Program Information — Fiscal Year 2001	
Name of Program	Licensing & Evaluation
Location/Division	Austin
Contact Name	David J. Lusk, P.E., Director of Licensing
Number of Budgeted FTEs, FY 2001	7
Number of Actual FTEs as of August 31, 2001	7

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The primary function of the licensing division is to accept and evaluate applications for licensure as prescribed in Sections 12 and 13 of the Act and the Board Rules. This evaluation process uses the criteria of education, experience, and examinations to determine if an applicant is qualified, capable, and competent to engage in the practice of engineering for the general public. If an applicant is deemed qualified, the licensing division grants the opportunity to take the professional examination. Upon passage of the examination, the applicant becomes a licensed professional engineer. The Act and Board Rules also allow for those persons, with sufficient years of creditable and acceptable experience, to request a waiver of the examination requirements and be granted licensure based solely on education and experience.

The licensing division administers the Fundamentals of Engineering and Principles and Practice of Engineering examinations as authorized in Section 14 of the Act. The examinations are purchased from the National Council of Examiners for Engineering and Surveying and administered by the agency. This function is described in more detail in the following section.

The other major function of the licensing division is to register firms. Sections 17 and 18 require that sole proprietorships, firms, partnerships, corporations, and other business entities may not engage in the practice of professional engineering for the public unless registered with this agency. The licensing division accepts and evaluates firm registrations in accordance with the Act and Board Rules.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The enabling statute was passed by the 45th Legislature and became effective May 28, 1937, as a result of the New London School explosion in which approximately 300 students and teachers were killed. In 1965, the 59th Legislature rewrote the original legislation, which then became known as the Texas

Engineering Practice Act. In accordance with the Act, the Board has the authority to establish rules to regulate the practice of engineering and professional engineering licensure.

Firm registration was enacted by the 76th Legislature and became effective January 1, 2000. All sole proprietorships, firms, partnerships, corporations and joint stock associations engaged in the practice of professional engineering for the public are required to register with the Board and provide the name and address of each officer or director and the name of the person(s) licensed to practice engineering on behalf of the entity.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Until September 1, 1992, applications were reviewed based solely on education and experience. Examinations were offered, but not required, for licensure as a professional engineer in Texas. Most states require the three criteria of education, experience, and examinations. Engineers who were licensed in Texas and who wished to become licensed in another state could not obtain reciprocity unless they had successfully completed the examinations. The Texas statute was strengthened to include the national examinations. However, in conjunction with the North American Free Trade Agreement (NAFTA) requirements for professional mobility, the examination requirement was modified to allow those persons with sufficient years of experience the opportunity to request a waiver from the examinations.

In fiscal year 2001, the Board contracted with the Management Advisory Services (MAS) Division at the State Auditor's Office to facilitate a planning session with the governing body, make recommendations for improving the licensing process and develop experience criteria for licensure. The MAS provided recommendations for establishing policy for licensing and improving the licensing division's operations. The recommendations focused on clarifying policy for licensure, improving instructions to the applicant for letters of reference and the supplementary experience record, ensuring consistency of the staff review of applications, and better defining experience criteria for licensure. The agency is currently incorporating the recommendations into the licensing policies and procedures.

The function of the Licensing Division is an ongoing activity to ensure the competency of those practicing engineering for the public. Licensure of engineers to practice engineering for the public will always be required. Since professional engineers are entrusted with the protection of the public's health, safety and welfare, the licensing program will continue to be a vital function of the agency.

Similarly, the Board is authorized to register all engineering firms that are practicing engineering for the benefit of the public. Firm registration will be ongoing as new firms move into Texas and new companies are formed.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The licensing program serves the public of the State of Texas as well as those engineers seeking professional licensure in Texas. There are approximately 48,000 currently licensed engineers. Approximately 1,200 persons apply for licensure during a calendar year. The individuals who become licensed professional engineers are recognized as having obtained the highest level of trust and confidence as well as accountability, which ultimately benefits all the people of Texas. To apply for licensure, an applicant must believe to the best of his or her ability that the minimum criteria for licensure

are met. These criteria are listed in Section 12 of the Act and include at a minimum graduation from a university or college with a four-year curriculum in engineering or related science, four years of experience, passage of the professional examination, and possession of suitable character and ethics. The experience criteria for those requesting waiver of examinations requires that such an applicant demonstrate an increase in responsibility and complexity to demonstrate competency. The application for licensure is then reviewed by staff and the Board. The application will be approved or not approved.

The firm registration function serves all firms that engage in the practice of engineering for the general public. Currently, there are approximately 4,627 registered firms. A registered firm must employ a full-time licensed professional engineer in responsible charge of the firm's work. A firm does not need to be located physically in Texas; however, all firms practicing engineering in Texas must register, regardless of the state or jurisdiction of origin.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Director of Licensing administers the program. This individual is actively involved in all aspects of the licensing policies and procedures and is available to assist the public with issues concerning the practice of professional engineering in this state. This individual also assists in making recommendations to the Board regarding the Board Rules. The Director of Licensing reports to the Executive Director of the agency.

The Licensing Team Leader supervises the licensing staff. This individual supervises and evaluates the work of the licensing division, assists applicants with issues concerning the licensing procedures, and is responsible for the administration of the national engineering examinations that are given two times each year. In addition to the Licensing Team Leader, the program employs five administrative technicians.

For Licensure as a Professional Engineer:

When an original application and fee are received, the applicant information is entered into the database and the fee is processed. The licensing staff then conducts an initial review to determine the completeness of the application. A complete application consists of:

1. an application form,
2. supplementary experience records (SER) describing the work experiences related to engineering,
3. reference statements,
4. official college/university transcripts and transcript evaluations when appropriate,
5. record of successful completion of the Fundamentals of Engineering Examination or request for waiver of the examination,
6. application fee of $250, (note: this includes the $200 "professional fee" pass through to the General Revenue Fund), and
7. a questionnaire on Texas engineering law, commonly called the Ethics Examination.

If an application is deficient, the staff communicates this to the applicant with written correspondence and/or electronic mail. The applicant will have 30 days to correct the deficiency. If the application is not completed in this timeframe, the applicant will be given a second notice of the deficiency and notice that the application will be "non-approved" if not completed within 30 days. If the deficiency remains, the application will be voted "non-approved" at the next regularly scheduled board meeting, and the file is retained should the applicant remit the deficient information with a request for reconsideration of his/her application for licensure.

Once complete, the staff compiles the coversheet, review sheet, and reference sheet for the application. The application is then forwarded to the Director of Licensing for evaluation in accordance with the requirements in the Act and the Board Rules. After evaluating the application, the Director of Licensing may require additional information to substantiate the claim for licensure or, if sufficient information is present, may judge the applicant's ability and grant licensure or the opportunity to take the Principles and Practice of Engineering examination or make recommendation to the Board concerning the application. *Subchapter G. Board Review of Application* prescribes when the Executive Director (or designee) may approve an application or may approve or non-approve an application and then circulate the application for Board review. This process is determined by the qualifications of the applicant including the educational credentials, whether the applicant is requesting a waiver, and number of years of creditable experience and the supporting information including reference statements and the recommendation of the Executive Director.

Applicants who are approved to take the Principles and Practice of Engineering examination are licensed upon successful completion of the examination. Applicants are granted four consecutive opportunities to succeed in this task. If an applicant does not pass the examination in the allotted time, the applicant must re-apply for licensure. An applicant who has requested waiver of the examinations is licensed if the Board determines that the applicant has demonstrated competency with sufficient education and experience. The Board may determine that the applicant is not qualified based on education and experience alone and may request that the applicant take the examination. Applicants who are not approved are allowed a reconsideration of the application and, if denied or not approved, must re-apply for licensure after fulfilling the requirements of the Act.

For Firm Registration:

When the firm registration application and fee are received, the firm information is entered into the database and the fee is processed. The licensing staff then conducts an initial review to determine the completeness of the registration. Elements of a complete registration include:

1. application for registration,
2. listing of branch offices that perform work in Texas,
3. listing of officers of the firm,
4. listing of licensed engineer(s) accountable for all engineering work in each office,
5. affidavit of correctness of application, and
6. fee of $75.

Once the components of the application are complete, the staff forwards the firm registration to the Director of Licensing for review and approval. If the application information is deficient, the Director of Licensing will instruct the staff to clarify the deficiency and the application is held until resolved. Approved applications are granted registration. Firm registrations that are not approved are forwarded to the Enforcement Division for resolution.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The licensing program does not coordinate services or functions with the federal government or local units of government. The agency does work closely with other state agencies and entities in verifying licensure application information, including the Texas Department of Transportation and Texas colleges and universities. Also, in accordance with the NAFTA, the Texas Board initiated the Mutual Recognition Document as a means of licensing engineers from Mexico and Canada who meet the minimum experience requirements and request that the Board waive the Fundamentals of Engineering and the Principles and Practice of Engineering examinations.

H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The fees collected by the agency fund all of the agency's programs and are deposited in the General Revenue Fund. The maximum fees are set in Section 13 of the Act. The license fee is $50 and is increased by $200 to include the professional fee. The Act requires the Board to not maintain unnecessary balances; the Board is granted authority to responsibly set the individual licensure and firm registration fees in accordance with this provision.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Yes. The licensure and registration fees allow the Board to successfully achieve the program mission, goals, objectives, and performance targets.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

There are no other internal or external programs to the agency that perform the identical professional engineering licensing functions for either individual or firm registration. Both the Texas Board of Architectural Examiners and the Board of Professional Land Surveying are granted similar licensing authority for those professions. Occasionally, there are overlapping practice issues between engineers and these two groups; however, the Board is the only agency authorized to license qualified professional engineers.

The agency also works with other state agencies that license, register, appoint, or certify activities similar to the practice of engineering. The agencies and programs include: Texas Natural Resource Conservation Commission (Occupational Licensing Programs including Underground Storage Tank, Irrigation Installation, Onsite Sewage Disposal), Texas Department of Health (Sanitary), and Texas Department of Insurance (Wind Analysis). The agency provides input as appropriate when these agencies propose rules,

policies or procedures that affect or coincide with the licensing program.

On a national level, the National Council of Examiners for Engineering and Surveying (NCEES) promotes licensure and maintains licensing information for engineers licensed in other jurisdictions. The Board will accept portions of this information when submitted by an applicant.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Though each state has its own criteria for licensure, there is a general uniformity of the minimum requirements. The Board is a member of NCEES and regularly attends conferences and meetings to ensure consistency between Texas and other jurisdictions and to coordinate activities. As stated previously, the agency will accept applicable licensing information from NCEES and not require the applicant to resubmit existing information. However, the Act does differ from other states' statutes and not all licensing requirements can be obtained through this avenue.

The agency has a Memorandum of Understanding with the Texas Board of Architectural Examiners that delineates the authority of each Board to license and enforce its regulated community.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The review of an application is dependent on the submission of the required documents from the applicant. The review of an incomplete application can span from a period of a few weeks to several months. The review of a complete application may take from one to four months depending on whether Board circulation is required. Those applicants approved to take the Principles and Practice of Engineering examination may have to wait several months for the next scheduled examination. It benefits the applicant to submit a complete application in a timely manner for approval into the examination cycle. As a part of the streamlining review of the licensing process, the agency is proposing Board Rule changes to minimize the application processing time while ensuring qualified persons are licensed.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The needs for regulation and the scope and procedures of the licensing process and firm registration have been presented. The Board Rules provide the administrative procedures and sanctions available to the Board when it is determined that a license holder or an engineering firm has not complied with the provisions of the Act and Board Rules. These remedies include formal and informal reprimands, suspension of the license, refusal to renew the license, assessment of an administrative penalty fee, or revocation of the license. Complaints against individual license holders and/or firms are referred to the Enforcement Division of the agency.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Board of Professional Engineers Licensing & Evaluation		
	FY 2000	**FY 2001**
Percent of licensees with no recent violations	99.8%	99.8%
Number of new licenses issued to individuals	1,423	1,643
Number of examination sessions conducted	4	4
Average licensing cost per individual license issued	$27	$30
Percentage of new individual licenses issued within 10 days	N/A (new measure effective 9/1/01)	
Percentage of individual license renewals issued within 7 days	N/A (new measure effective 9/1/01)	
Total number of individuals licensed	47,868	48,621
Average time for individual license issuance*	133 Days	120 days
Pass rate (%)**	61.40%	62.9%

*The average time for individual license issuance includes the lapsed calendar days from the time the application is initially received until the license is mailed to the licensee. This elapsed time includes the time for an applicant to schedule and successfully complete an examination.

**The pass rate reflects the combination of both the Fundamentals of Engineering and the Principles and Practice of Engineering examinations.

Examinations

A. Please complete the following chart.

Texas Board of Professional Engineers Program Information — Fiscal Year 2001	
Name of Program	Examinations
Location/Division	Austin
Contact Name	David J. Lusk, P.E., Director of Licensing
Number of Budgeted FTEs, FY 2001*	0
Number of Actual FTEs as of August 31, 2001*	0

*These services are funded in the Licensing and Evaluation program.

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The key function of the examinations program is to administer the national engineering examinations that are developed and graded by the National Council of Examiners for Engineering and Surveying (NCEES). These examinations are administered twice each year (April and October) and consist of the Fundamentals of Engineering examination and the Principles and Practice of Engineering examination, which is offered in 16 recognized disciplines. The Fundamentals of Engineering examination is an eight-hour examination and is administered to engineering students at 24 universities and at four additional sites that are managed by the staff of the Board. The Board is responsible for administering the eight-hour Principles and Practice of Engineering examination at four sites in Texas. In addition, the Board proctors the examinations for out-of-state examinees.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

Sections 12 and 14 of the Act establish the examination requirement as a prerequisite to licensure. The national engineering examinations are administered as one element of determining qualifications of applicants for licensure to ensure the protection of the public's health, safety and welfare.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Prior to September 1, 1992, the examinations were not required for licensure in Texas. In recognition of the fact that the national engineering examinations were required by all other state licensing boards, the Act was modified to require that all applicants for licensure successfully complete the examinations prior to licensure. In 1997, the Act was modified to include a waiver from the examinations for individuals

who possess sufficient qualifications to justify the waiver and who do not pose a threat to the public health, safety and welfare.

The examinations program will continue to be a viable function of the agency as the examinations are an integral tool in evaluating competency for professional engineering licensure.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The examinations program serves students, graduate students, and applicants who meet the minimum qualifications for licensure. All students who are within two semesters of graduation and graduate students are eligible to take the Fundamentals of Engineering examination if enrolled in a four-year engineering, engineering technology, or related science degree program. Approximately 1,200 students take the Fundamentals of Engineering examination each year.

A person who has graduated from a four-year engineering, engineering technology, or related science degree program may apply to the Board take the Fundamentals of Engineering examination. The Board sponsors four sites where those who have graduated may sit for the examination. Approximately 600 people in this category take the examination each year.

To take the Principles and Practice of Engineering examination, an individual must apply for licensure and be approved by the Board to take the examination. The preceding section on licensure explains this approval process. A currently licensed professional engineer may apply to take the Principles and Practice of Engineering examination for record purposes. Approximately 1,000 prospective engineers take the Principles and Practice of Engineering examination each year.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

Fundamentals of Engineering Examination for Current Students and Graduate Students

The Fundamentals of Engineering examination is administered to engineering students through the engineering dean's office at their respective university. Approximately four months prior to the examination date, the Board contacts the engineering deans across the state and determines the number of application forms required for eligible students and graduate students. The deans receive these forms and distribute them to the students and graduate students who qualify to take the examination. The students submit the form and fee to the Board approximately two months prior to the examination date. The Board purchases the appropriate number of examinations from NCEES and sends them to each university. The universities coordinate and proctor the examinations. Completed examinations and booklets are returned to the Board office and forwarded to the grading service. When the examination results are received by the agency, the examinee is notified of his/her score.

Fundamentals of Engineering Examination for Persons who have Graduated

The Board administers the Fundamentals of Engineering examination to persons who have graduated from a four-year program in engineering, engineering technology, or related science. Anyone who believes they meet the qualifications of Board Rule 131.101(e) may apply to the Board to take the Fundamentals of Engineering examination. The deadline for submitting an examination application and

fee is generally two months prior to the examination date. Again, all examination materials are obtained from NCEES; however, the Board administers the examination for persons who have graduated from a college or university. NCEES guidelines for administering the examinations are strictly adhered to at all testing sites to ensure that the examinations are not compromised.

Principles and Practice of Engineering Examination

The Board administers the Principles and Practice of Engineering examination for approved applicants for licensure and for engineers taking the examination for record purposes. When an applicant is approved to take the examination, they are sent an examination application form. These forms must be returned to the Board with the appropriate fee approximately two months before the examination date. The Board purchases the examination materials, coordinates, and proctors the examinations according to the NCEES policies and procedures. The examinations are given in Austin, Dallas/Fort Worth, Houston and El Paso. The agency staff, volunteers from the Texas Society of Professional Engineers, and other individuals proctor the examinations. After the examinations are completed, the Board organizes them according to NCEES specifications and returns them for grading. The Board notifies the examinees of the scores and passing individuals are granted licensure.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The examinations program does not work with the federal government or local units of government. In accordance with the North American Free Trade Agreement, the Board approved the Mutual Recognition Document to waive the examination requirements for qualified persons from Mexico and Canada who meet the minimum education and experience requirements established by the Board. This scope has been broadened to allow all qualified applicants this mechanism for licensure.

H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

All examination fees collected by the agency for the administration of the national engineering examinations are dedicated revenues for examination purposes only and do not fund any other program.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

The current funding resources are sufficient to achieve the program; however, any increase in examination costs by NCEES may have an adverse affect on the program as the examination fee is capped at $200 in Section 13(b) of the Act. The fees cover the costs of examination facilities, freight, postage, proctors, and the actual examination purchase and grading.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

All engineering licensing agencies in the United States participate in providing the Fundamentals of Engineering and Principles and Practice of Engineering examinations. These national examinations are uniform, standardized tests developed by NCEES and administered on the same days across the country. Other licensing boards in Texas, such as the Texas Board of Architectural Examiners and the Texas Board of Land Surveyors, administer similar exams; however, this agency is the only one authorized to administer these tests to engineers.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

The examinations are given in accordance with NCEES policies and procedures during the prescribed periods. All examination information is posted on the agency Web site and made known through outreach presentations and programs. The agency responds readily to questions concerning the examination process via telephone, facsimile, and electronic mail.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

The examinations program is a yearlong program due to the licensing process. The staff is responsible for assisting applicants with scheduling examinations, coordinating the examination administration throughout the state, and notifying all examinees of their test results. More information concerning the examinations and examination development and content can be found on the NCEES Web site at: www.ncees.org.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The examinations program is a requirement for licensure and allows for an individual to demonstrate competency. The Act and Board Rules establish the requirements and procedures for examinations. The examinations are administered in accordance with NCEES policies and procedures. The Board Rules address cheating or compromising an examination and propose administrative remedies for those in violation of these rules.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Board of Professional Engineers Examinations Fiscal Years 2000 and 2001		
	FY 2000	**FY 2001**
Individuals Examined	3,257	3,326
Average Cost Per Exam Administered*	$32.00	$32.00

*This cost is only the administrative cost and does not include the cost to the agency to purchase and grade the national engineering examinations.

Registry Services

A. Please complete the following chart.

Texas Board of Professional Engineers Program Information — Fiscal Year 2001	
Name of Program	Registry Services
Location/Division	Austin
Contact Name	Janet Sherrill, Director of Administrative Services
Number of Budgeted FTEs, FY 2001	7
Number of Actual FTEs as of August 31, 2001	7

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The Administrative Services Division is responsible for all operational functions of the Board. These functions include the annual license renewal notification as set out in Sections 16 and 16.1 of the Act for professional engineers and the annual renewal of all firms offering professional engineering services to the public as set forth in Section 17 of the Act. The Administrative Services Division also is responsible for maintaining the database of all licensed professional engineers, performing all record-keeping functions for the agency, administering the agency's Web site, performing the day-to-day business administrative functions including accounting and procurement services, and periodically disseminating information bulletins to all licensees. This program administered the six-year voluntary Continuing Professional Competency program, which expired on June 1, 2001. The Administrative Services Division also provides information to students, educators, engineering practitioners and the public about the importance of the licensing process and professional development and ethics. This division handles requests for copies of records and electronic information received under the Public Information Act.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The Board issues a license upon payment of the license fee to any applicant, who, in the opinion of the Board, has satisfactorily met all the requirements of the Act. This license authorizes the practice of engineering in Texas and the issuance of the license shall be the evidence that the named person is entitled to all rights and privileges of a licensed professional engineer while the license is not expired or revoked.

Sections 16 of the Act requires the Board to notify all licensed professional engineers of the date the license is due to expire and the annual renewal amount. The Board sets the fee for the renewal each year at the regularly scheduled June Board meeting. Section 16(c)-(d) provides for the assessment of late renewal penalties and stipulates that a license that has been expired for two or more years cannot be renewed. Each license holder is responsible for the timely renewal of the license to prevent renewal penalties. The renewal documentation allows the license holder to not only renew the license but it also allows the license holder to amend the original application by updating the professional engineers' firm of

association, firm address, email address and mailing address. The present renewal fee is $30 per year; however, on September 1, 1991, the Legislature required that all professionals pay a $200 professional fee in conjunction with the renewal fee. The law also allowed for certain exemptions for license holders employed in private industry as set forth in Section 20(a)(5) and (6) of the present codified version of the Act. The Act [(Section 13(d)] also allows for an exemption of the professional fee for individuals that are 65 years of age or older and for individuals that are disabled [(Section 13(e)]. This fee is collected from license holders and deposited in the General Revenue Fund. A renewal card or "pocket card" is sent to the license holder upon payment of the renewal fee.

Section 17 of the Act established the firm registration program that became effective January 1, 2000. The firm registration process is carried out by the Licensing Department of the agency and the annual renewal is processed by the Administrative Services Division. The renewal for the firm registration is for a one-year period; the one-year is based on the date the firm was registered unlike the professional engineer renewal on a quarterly basis. The firm registration renewal process is similar to the license renewal process in that the renewal notice is sent to each firm prior to the date the registration is due. It is the firm's responsibility to renew the registration in a timely manner. The renewal documentation allows the firm to not only renew the registration but it also allows the firm to amend the original application by updating the names of the professional engineers in the firm, firm address and any change in the management of the firm. A firm registration renewal card is sent to the firm upon payment of the renewal fee.

Section 9 of the Act provides for the business administrative functions of the agency. These functions include the agency's collection of renewal fees and penalties that are provided to the agency. The accountant coordinates the transfer of funds to the State Comptroller's Office and also processes the agency invoices for services rendered to the agency by vendors.

The Administrative Services Division also maintains the records of the license holders and performs the function of providing such records upon request under the Public Information Act.

Section 11 stipulates that the roster of professional engineers will be provided in an online computer database format.

The six-year voluntary Continuing Education program (CPC) was implemented in accordance with Section 8(c) of the Act and was initiated in 1995 and terminated in June 2001. Under this program, all license holders upon renewal would receive a CPC form to enroll in the program. The license holder would then submit his/her professional development hours to the Operations Department to be annotated on the record.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

The roster of professional engineers was printed and distributed once every two years until the passage of Senate Bill 1544, 76th Legislature. In recognition of the advancements in computer technology, the Act was amended to require the Board to provide the roster in an online computer database format and is available on the agency's homepage. Individuals desiring a hard copy may still obtain one for a fee that covers the reproduction cost.

The voluntary six-year Continuing Professional Competency program was completed on June 1, 2001. Approximately ten percent of the licensed professional engineers participated in this program on an annual basis.

The license renewal function will continue to be needed in order to comply with the Board's mandate to protect the public's health, safety, and welfare.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The program serves the licensed professional engineers, the public, governmental entities and other state licensing agencies.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Registry Services Program is administered by the Director of Administrative Services who has overall responsibility for the program. The Director of Administrative Services reports to the Executive Director of the agency and evaluates the work of the registry services and serves as the agency's information resource manager and local area network administrator. The division is comprised of an accountant and four administrative technicians.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The interagency contract with the Murdough Center for Engineering Professionalism at Texas Tech University is administered under this program. The center has developed the Board's professionalism and ethics standards and conducts educational seminars for engineering faculty, consulting engineering companies, and state entities. Engineering students may take the professionalism and ethics course for credit toward their engineering degrees. The center publishes the TexethicS Newsletter once each year, which is disseminated to all engineering faculty members and other individuals. The Murdough Center developed the ethics examination, which all applicants for a professional engineer license must submit with their application. The Compliance Assistance Division also utilizes the services of the center as an enforcement tool for violators of the Act.

H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The fees collected by the agency fund all of the agency's programs and are deposited in the General Revenue Fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

The annual license renewal fee has been constant at $27 for the last four years; however, a slight increase has been approved by the Board beginning in Fiscal year 2002.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

Similar renewal services are performed by regulatory agencies in Texas and nationwide. While Texas requires licensed professional engineers and engineering firms to renew on an annual basis, other entities may process renewals spanning two or more years. Occasionally, an engineer confuses the renewal of the license with the renewal of a membership in a society or association.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

The professional engineer license renewal and firm registration renewal functions are inherent processes to the Board mandate to protect the public's health, safety, and welfare.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The renewal functions are a continuation of the original professional engineer licensure and firm registration processes, which have been described in detail under the licensing and evaluation program.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Board of Professional Engineers Registry Services Fiscal Years 2000 and 2001		
	FY 2000	**FY 2001**
Number of Informational Bulletins and Rosters Mailed	49,696	50,000
Number of Licenses Renewed (Individuals)	46,212	47,970
Average Time for Individual License Renewal (Days)	3	3

Enforcement

A. Please complete the following chart.

Texas Board of Professional Engineers Program Information — Fiscal Year 2001	
Name of Program	Compliance Assistance Division
Location/Division	Austin
Contact Name	Charles Pennington, P.E., Director of Compliance Assistance
Number of Budgeted FTEs, FY 2001	5
Number of Actual FTEs as of August 31, 2001	5

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The functions of the law enforcement program are carried out by the Compliance Assistance Division of the agency. The program conducts both proactive and reactive investigations to determine whether the Act or Board Rules have been violated. Based on information obtained in connection with such investigations, the program has the authority to pursue administrative action against business entities or unlicensed individuals and disciplinary action against license holders. In these instances, the staff represents the agency in recommendations to issue cease and desist orders, impose administrative penalties for violations of the Act, deny an application for licensure, revoke or suspend a license, probate a suspension of a license, refuse to renew a license, or reprimand a license holder for violations of the Act or Board Rules. The division also refers matters to local criminal law enforcement agencies and the Office to the Attorney General and provides a wide range of assistance and support in the criminal or civil proceedings that may follow.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The program was created shortly after the creation of the agency in 1937 to implement enforcement provisions in the Act designed to protect the health, safety and welfare of the public. Section 8(a) of the Act requires that ". . . the Board shall have the authority and power to make and enforce all rules and regulations and bylaws consistent with this Act as necessary for the performance of is duties. . ." Section 8(d) permits the Board to issue administrative subpoenas to obtain testimony or records relevant to investigations of alleged violations of the Act. Other enforcement provisions of the Act provide mechanisms for the denial of a license, the revocation or suspension of a license, the probation of a suspension of a license, the refusal to renew a license or the reprimand of a license holder [Section 22(a)]; cease and desist orders [Board Rule 131.167(i) and 131.168]; administrative penalties (Section 22C); criminal prosecution [Sections 22(a) and 23(a)]; and civil injunctions [Section 8(a)].

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Since the inception of the agency, the fundamental functions of the law enforcement program – to initiate investigations to detect and/or address allegations of violations of the Act or Board Rules and to take appropriate administrative or civil action – have essentially remained unchanged. In recent years, the size of the enforcement division and the number of investigations have increased due to the explosive growth of consulting businesses, an increased emphasis on forensic engineering analysis of apparent structural deficiencies and changes in technology. The law enforcement function will continue to be needed to protect the health, safety, and welfare of the public.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

This is a law enforcement program that serves the public of the State of Texas. Any firm or individual who appears to violate the Act or Board Rules is subject to investigation and potential enforcement action. This population includes firms (whether registered or not) and individuals (whether licensed or not), domestic and foreign entities, and those directly or indirectly offering or performing engineering services in the State of Texas. No statistical information is known to exist that would purport to calculate the size of this group.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The law enforcement program is administrated by the Director of Compliance Assistance who has overall responsibility for the enforcement program. This individual is actively involved in various aspects of each investigation, such as providing guidance on an investigative process, evaluating pertinent investigations, and recommending administrative or civil actions and criminal referrals. This individual also assists in making recommendations to the Board regarding rulemaking. The Director of Compliance Assistance reports to the Executive Director.

The Compliance Assistance Division staff is supervised by a Supervising Investigator. This individual supervises and evaluates the work of the enforcement division and opens and directs investigations of alleged violations of the Act and Board Rules. This individual reviews and evaluates pertinent investigations and recommends possible action. The Supervising Investigator reports to the Director of Compliance Assistance.

The staff of the enforcement program reports to the Supervising Investigator. Due to both the complexity of the law and Board Rules enforced by the program and the level of interaction between the staff, the Board's General Counsel, licensed professional engineers, complainants and respondents, the staff must and does consist of highly trained and experienced investigators.

At the time of the preparation of this report, the program employed a Director of Enforcement, a Supervising Investigator, two investigators and one administrative technician.

The law enforcement program works closely with the other programs of the agency to coordinate the discovery of potential violations of the Act and Board Rules. The division also monitors publications of general circulation throughout the state, the Internet, and other forms of mass communications to detect potential violations of the Act, and receives information from the public that suggests violations of the Act or Board Rules.

If information is received indicating a potential violation of the Act or Board Rules, the matter is investigated by the staff of the Compliance Assistance Division. As part of this process, the staff may interview witnesses, subpoena documents, and obtain information from a number of other sources before a determination is made whether or not to pursue administrative or disciplinary action. If the matter can be disposed of by a Board Order, the staff will assume responsibility for all or part of this process. If the matter requires referral to the State Office of Administrative Hearings, the agency's General Counsel will assume responsibility for all or part of this process by acting as a special prosecutor and the staff will assist the prosecutor during this process as needed. If a civil action in the nature of an injunction is considered appropriate, the matter is referred to the Office of the Attorney General and the staff will assist with the preparation of pleadings, discovery, trial, and, if necessary, appeal of the case.

G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Board recognized the need for an avenue to enhance the enforcement process by having the license holders attend a course that could be completed in a minimal amount of time but with a strong emphasis on professionalism and ethics. In 1989, the Board entered into an interagency contract with the Murdough Center for Engineering Professionalism at Texas Tech University to develop a program on engineering professionalism and ethics. The course, which is now used by numerous other state engineering licensing boards, has been very successful. Although it was originally designed as a teaching tool for engineering faculty, and a training mechanism for consulting engineering companies and state government, it is also being used as an enforcement tool for violators of the Act.

H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The fees collected by the agency fund all of the agency's programs and are deposited in the General Revenue Fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Yes. However, while the Board believes that the current funding is adequate for current activities, it also believes that a significant amount of additional funding is needed to expand and improve future enforcement programs to better protect the citizens of Texas.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

Similar enforcement programs and functions are provided by other states to protect the health, safety and welfare of all citizens. These functions are carried out in accordance with the statutes of each jurisdiction.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

The agency regularly attends the southern zone and annual meetings of the National Council of Examiners for Engineering and Surveying to discuss and share enforcement activities. Disciplinary actions of formal reprimands, refuse to renew, suspension and revocation of a license are reported to the National Council of Examiners for Engineering and Surveying Enforcement Exchange for the benefit of national jurisdictions.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N/A

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Board of Professional Engineers Enforcement Fiscal Years 2000 and 2001		
	FY 2000	**FY 2001**
Percent of Complaints Resulting in Disciplinary Action	36%	20%
Recidivism Rate for Those Receiving Disciplinary Action	0%	0%
Percent of Documented Complaints Resolved Within Six Months	81%	82%
Complaints Resolved	316	405
Number of Enforcement Cases and Inquiries Resolved	1,115	1,018
Number of Compliance Orders Issued	65	22
Number of Disciplinary Actions Taken	87	50
Average Time for Complaint Resolution (Days)	114	107
Average Cost Per Complaint Investigation	$291	$346
Jurisdictional Complaints Received	316	405

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

1. Self-Directed, Semi-Independent Project Agency - The Texas Board of Professional Engineers was selected as one of three agencies with exemplary performance to participate in the Self-Directed, Semi-Independent Project Agency Act. In this pilot program, the agency will exercise greater autonomy over its operations for a two-year period. The goal of this project will be to create a more effective mechanism to provide exceptional public service.
2. Implemented the firm registration program resulting in over 4,100 engineering firms becoming registered with the Board.
3. Recognized "Software Engineering" as an engineering discipline. The Board leads the nation in promoting this discipline for licensure. Texas has licensed approximately 50 software engineers.
4. Evaluation and streamlining the licensure process. The Board contracted with the Management Advisory Services division of the State Auditor's Office to review the enabling legislation and current practices in the agency's licensing division to identify opportunities to improve the process. These recommendations were accepted at the June 13, 2001 Board Meeting and the agency has started implementing these improvements.
5. Increased communication - The agency has increased its availability to the regulated community and public-at-large with the use of the Board Web site and electronic mail. Electronic mail also decreases the agency's response time to questions concerning the agency's functions. In addition, the Engineer Roster is now accessible from the Web site by the general public.
6. Engineering Ethics - The Board maintains a contract with the Murdough Center for Engineering Professionalism to promote engineering ethics and education. This effort is recognized nationally.
7. Interaction with the Texas Board of Architectural Examiners. The Board has developed a close working relationship with this agency as a means of resolving overlapping practice issues and to develop proposed policies and guidelines for distinguishing the functions of each Board.

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.

The Executive Director provides the Board with performance reports at the quarterly Board meetings. When performance results vary or when economical factors alter expectations, the Board addresses those issues at the Board meetings. The agency's performance is considered during the strategic planning and appropriations process, and modifications are made to future performance projections if necessary.

The Board also submits quarterly and annual performance measure reports to the Legislative Budget Board, the Governor's Office of Budget and Planning, and the State Auditor's Office. In October 2000 and February 2002, the Board contracted with the Management Advisory Services Division of the State Auditor's Office to review and report on the licensing and enforcement functions. The highlights of this report are recorded in the Board Meeting minutes. The Board Members and staff regularly report on Board activities, policies and procedures during outreach presentations to engineering firms, state agencies, and to professional organizations.

C. What are the agency's biggest opportunities for improvement?

1. Continue to improve communication and customer service to the regulated community and general public.

2. To promote licensure to more engineers. Only 50,000 of approximately 250,000 engineering graduates in the State of Texas obtain a professional engineer license. Many of these non-licensed engineers are in an exempt category; however, the Board strongly encourages those individuals to become licensed.

3. To successfully complete the Self-Directed, Semi-Independent Project Agency pilot program and find ways to improve the agency's effectiveness and efficiency.

4. To develop or improve the agency's information resource database to increase flexibility and accessibility.

D. How does the agency ensure its functions do not duplicate those of other entities?

The agency focuses on regulating engineers and the practice of engineering as prescribed in the Act. The agency is proactive in involvement with other state agencies and entities in engineering-related matters. Technical issues are referred to technical societies for input or management of the issue. The agency communicates with the Texas Society of Professional Engineers and the Council of Engineering Companies of Texas concerning large-scale professional engineering issues. The Board is a member of the National Council of Examiners for Engineering and Surveying and coordinates engineering functions on a national level with this organization.

E. Are there any other entities that could perform any of the agency's functions?

The examinations that are currently administered by the Board are purchased and graded by NCEES. This organization has recently created an examination service that can administer the examinations; however, an Attorney General Opinion rendered for another agency may imply that the current language in the Act and Board Rules would not allow outsourcing administration of the examinations. This issue has been presented in the "Policy Issues" section of this report. In addition, this service would cost the applicants more than the agency currently charges to administer the examination. The agency does not believe that contracting with this service would benefit the licensure process at this time.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

The Board periodically conducts a customer service survey. The survey is mailed to a random selection of licensed professional engineers and examination candidates, is posted on the agency's Web site, and is available for walk-in customers to complete. The results are evaluated by the Board to determine the effectiveness of the agency in fulfilling its mission.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

Complaints against the agency are infrequent and are generally handled informally by the Executive Director. A complaint is evaluated to determine its merit and appropriate action is taken to address the issue raised by the complainant. The individual is apprised of any corrective action taken if necessary. Complaints are so infrequent that no formal tracking system for handling complaints against the agency has been established.

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Board of Professional Engineers
Exhibit 15: Complaints Against the Agency – Fiscal Years 2000 and 2001

	FY 2000	FY 2001
Number of complaints received	N/A	N/A
Number of complaints resolved	N/A	N/A
Number of complaints dropped/found to be without merit	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Average time period for resolution of a complaint	N/A	N/A

I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?

The Assistant Executive Director serves as the Public Information Officer and coordinates the responses to requests for information under the Public Information Act. Depending on the nature of the request, the agency uses one of four procedures to respond to the request. The procedures are for: 1) records that can be provided within ten days of the request; 2) records that cannot be provided within ten days of a request due to the nature of the request that requires a decision from the Office of the Attorney General; 3) records that relate to computer and electronic information; and 4) information that requires programming or manipulation of data. Charges for copies of records are made in accordance with the guidelines issued by the Texas Building and Procurement Commission.

J. Please fill in the following chart with information that is as current and up-to-date as possible:

Texas Board of Professional Engineers **Exhibit 16: Contacts**		
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)		
Group or Association Name/ Contact Person	**Address**	**Telephone Number Fax Number E-mail Address**
Texas Society of Professional Engineers Mr. Gerhardt Schulle, Jr., Executive Director	P. O. Box 2145 Austin, TX 78768	(512) 472-9286 (512) 472-2934 schulle@tspe.org
Texas Council of Engineering Companies Mr. Steve Stagner, Executive Director	1001 Congress Avenue, Suite 200 Austin, TX 78701	(512) 474-1474 (512) 474-1490 steve@cectexas.org
American Society of Civil Engineers Mr. Donald E. Willhouse, P.E., President	30717 Berry Creek Drive Georgetown, TX 78628	(512) 869-0589 (512) 206-5930 don.willhouse@mhmr.state.tx.us
American Society of Mechanical Engineers Southern Regional Office Mr. Burton Dicht, Director	1950 Stemmons Freeway, Suite 5068 Dallas, TX 75207	(214) 800-4900 (214) 800-4902 dichtb@asme.org
Institute of Electrical and Electronic Engineers Mr. Tony Amber, Vice Chair	University of Texas at Austin ACES Building, Room 5.120 NSCO803 Austin, TX 78712	(512) 475-6153 (512) 232-1965 amber@ECE.utexas.edu
Texas Alliance for Minorities in Engineering Mr. Crespin Guzman, P.E., Chair	City of Austin Water Wastewater Utility Dept. 625 W. 10th St., Suite 700 Austin, TX 78701	(512) 471-6100 (512) 471-6797 crespin.guzman@ci.austin.tx.us
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with the agency)		
Group or Association Name/ Contact Person	**Address**	**Telephone Number Fax Number E-mail Address**
National Council of Examiners for Engineering and Surveying Ms. Betsy Browne, Executive Director	P. O. Box 1686 Clemson, SC 29633	(864) 654-6824 (864) 654-6033
LIAISONS AT OTHER STATE AGENCIES (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)		
Agency Name/ Relationship/ Contact Person	**Address**	**Telephone Number Fax Number E-mail Address**
Attorney General's Office Mr. Frank J. Knapp, Jr., Assistant Attorney General	300 W. 15th Street, 12th Floor Austin, TX 78701	(512) 475-4195 (512) 320-0167 Frank.Knapp@oag.state.tx.us

Legislative Budget Board Mr. Rick Travis, Budget Analyst	1501 Congress Ave., 5th Floor Austin, TX 78701	(512) 463-7826 (512) 475-2902 rtravis@lbb.state.tx.us
Governor's Office of Budget and Planning Mr. Smiley Garcia, Budget Analyst	1100 San Jacinto, 4th Floor Austin, TX 78701	(512) 463-7759 (512) 463-1880 sgarcia@governor.state.tx.us

VIII. 77th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 17 Example.

Texas Board of Professional Engineers Exhibit 17: 77th Legislative Session Chart		
Legislation Enacted in the 77th Legislative Session		
Bill Number	**Author**	**Summary of Key Provisions/Intent**
SB510	Armbrister	SB510 clarifies the procurement methods that a political subdivision or a related entity or certain educational institutions may use. The bill specifically clarifies the procurement process under the Professional Services Procurement Act for local entities and local government corporations.
SB736	Duncan	SB736 authorizes the Board to deposit all fees and funds collected by the agency in an interest-bearing account in the Texas Treasury Safekeeping Trust Company in order to allow the agency to participate in the self-directed semi-independent agency pilot project established by the enactment of SB1438, 76th Legislature. The pilot project removes the agency from the legislative budgeting process and allows it to operate outside the provisions of the General Appropriations Act.

SB1797	Carona	SB1797 exempts all engineering professors from the licensure requirements of the Act and provides that the teaching of engineering may not be considered as the practice of engineering. SB1797 became effective on June 17, 2001.
Legislation Not Passed in the 77th Legislative Session		
Bill Number	**Author**	**Summary of Key Provisions/Intent/Reason the Bill did not Pass**
SB697	Wentworth	SB697 authorized the Board to mandate up to eight hours of continuing professional education for persons regulated by the Board; required the Board to review proposals for the procurement of services issued by a governmental entity to determine whether the services were within the scope of the practice of professional engineering; authorized the Board to reduce the firm registration fee for a sole proprietorship to half the registration fee for other engineering firms; provided that the a sole proprietor's firm registration would expire on the same date as the professional engineer license; established an exemption for a sole proprietorship, firm partnership, joint stock association, corporation, or other business entity or the entity's employees or contractors whose products and services are provided or sold to an agency or department of the United States government or the government of a foreign country that involves the design, development, production, sale or provision of defense projects or services, consists of or supports commercial aircraft, or consists of space vehicles or space services subject to licensing or regulation by an agency or department of the United States government, or for sale or use outside the United States; authorized the Board to require individuals practicing engineering in Texas who are exempt from the licensure requirements to register and pay a fee not to exceed $25; and directed the Board to develop written guidelines, in consultation with representatives of public and private institutions or higher education, consulting engineers, private industry, and the Texas Higher Education Coordinating Board, that describe a distinction between engineering research conducted by faculty at a public or private institution of higher education and other activities conducted by those faculty that constitute engineering consulting or the offering of engineering services to the public. Governor Perry vetoed the bill.
SB1451	Lindsay	SB1451 provided that a sole proprietorship or engineering firm with fewer than six engineers would not be required to pay a firm registration fee. Both this bill and its companion, HB3372, were left pending in committees to which they were assigned.
HB1338	Brimer	HB1338 added an exemption from the licensing requirements for qualified scientists engaged in the polymeric sciences. HB1338 was left pending in committee.
HB2034	Bosse	HB2034 proposed amendments to Chapter 130 of the Civil Practice and Remedies Code relating to indemnification provisions concerning licensed architects and engineers in certain construction contracts. HB2034 was left pending in committee.
HB3077	Nixon	HB3077 provided that sole proprietorships be exempted from paying the firm registration fee. HB3077 was left pending in committee.

IX. Policy Issues

In reviewing the Act, the Board has identified and presented recommendations on issues that affect the engineering profession and administration of the Act. These policy issues can be grouped and are presented in three categories: clean-up, clarification, and policy. Clean-up issues relate to items in the Act that require updating to agree with other statutes, rules, and regulations. Clarification issues concern interpretation of the language of the Act to determine the original intent of the legislation. Policy issues concern those items that would add clarity to the Act and resolve or reduce confusion. The category is noted in the description of each issue.

Policy Issue No. 1

A. Brief Description of Issue

Policy: The Board will implement the Self-Directed Semi-Independent Agency Project Act on September 1, 2001.

B. Discussion

The Board was selected as one of three agencies with exemplary performance to participate in the Self-Directed, Semi-Independent Project Agency (SDSIPA) Act, Texas Revised Civil Statutes, Article 8930. In this pilot program, the agency will be able to exercise greater autonomy over operations for a two-year period by not being subject to the appropriations process. The goal of this project will be to create a more effective mechanism to provide exceptional public service. Overall, the agency expects to increase efficiency and effectiveness by improving services under this program. Some issues and concerns are also associated with this program. Since the program begins September 1, 2001, this agency has not yet experienced the benefits or challenges of SDSIPA status. The agency will keep the Sunset Commission informed on the issues, concerns, solutions and resolutions of this process by submitting the reports for attachment to this SER.

Funding: The SDSIPA Act codified previous expectations from the Legislature that all funding for the agency to operate be generated from fees for licensure, registration, and services. The agency determines the budget but must also fulfill the requirements of the enabling Act. To ensure compliance, the Board has initially raised renewal fees from $27 to $30. Two-thirds of the fee increase is to cover costs not incurred in previous budgets and that must now be funded. These costs are estimated and include:

- Legal Services from the Attorney General's Office $30,000
- Additional accounting audit $35,000
- Mandated collection of additional revenue for the General Revenue Fund $50,000

In addition, the agency believes it must maintain some reserves to anticipate emergency or otherwise unanticipated necessary expenses. In past years, the agency has closed the year with operating surpluses of around $20-30,000, which has been remitted to the General Revenue Fund. With the SDSIPA Act requirement of the mandated collection of additional revenue for the General Revenue Fund, the agency must also plan for this operating reserve. In addition, the agency is also implementing a schedule of additional fees for services that are based on generally accepted accounting principles, such as returned check fees. These types of services have previously been absorbed into the general operating budget and other resources.

Travel: The Board has been limited in participation in outreach activities and the ability to cover unusual but necessary events. The agency has previously faced enforcement activities and special called Board meetings without the necessary funding to address these items in a timely manner. The SDSIPA Act allows for flexibility in setting the budget. The agency has used past actual travel costs (budget plus riders) to set a responsible travel budget to ensure the intent of the Act is accomplished and that there is appropriate Board Member participation in outreach activities. Additionally, this action will enhance the staff's outreach participation in regional and state technical societies and organizations. With a proactive approach to agency issues, the Board expects more efficient and more effective enforcement through prevention rather than reaction.

Staff: The SDSIPA Act provides the agency with latitude in administering the employees' compensation. The Board anticipates improving employee retention and job satisfaction in judiciously rewarding exemplary employees for superior performance. The benefits include retention of quality staff to increase the agency efficiency and effectiveness. The agency has set policy to use the standard state classification system as a guideline for personnel actions but recognizes the flexibility of the SDSIPA Act.

Additional Services: A prime benefit of the SDSIPA program is to allow the agency the latitude to use more effective services to better serve and protect the public. The agency is investigating creative avenues to upgrade the outdated database and other computer services to meet the agency's specific needs to provide better communication and service to the regulated community and general public. The flexibility of the SDSIPA Act allows the Board to act more quickly on enhancing the services to the public and use technology to capitalize on providing more and better services with a highly qualified staff.

C. Possible Solutions and Impact

Recommendation 1: Continue the SDSIPA Act program.

Impact 1: For the Texas Board of Professional Engineers, this pilot project will allow the agency the flexibility to find better and more effective ways to serve the mission of the Act. The SDSIPA Act contains the appropriate measures to maintain oversight of the agency. In addition, the Board Members will continue to be appointed and responsible to the Governor.

Recommendation 2: Continue the SDSIPA Act program for at least four more years.

Impact 2: The SDSIPA Act pilot program was delayed from its initial conception and has only been granted a two-year window. The Board believes that this is not a sufficient timeframe to fully implement the program for a 65 year-old process and properly evaluate the benefits.

Recommendation 3: Discontinue the SDSIPA Act program.

Impact 3: To terminate this pilot project after two years would result in loss of the resource and development time invested in implementing the program. The agency has the procedures in place to re-enter the appropriations process and could do so. Initiatives implemented by the agency during this pilot period would require evaluation and some determination of whether to continue them in the current or a modified form.

Policy Issue No. 2

A. Brief Description of Issue

Clarification: Can engineering experience gained prior to graduation from an approved curriculum be counted toward licensure?

B. Discussion

In Section 12(a)(1) the requirement of "additional" experience has been interpreted various ways, including to mean "after graduation"; however, the Board believes that "additional" was intended to mean "at least" and not necessarily after graduation. If the applicant can substantiate application of engineering theories and knowledge gained in formal education that is applied during an engagement, the Board believes that this experience may be acceptable. Also, the Board believes that cooperative type or other engineering work experience before graduation significantly enhances the prospective engineer's understanding of engineering principles and practices.

The order of the language in Section 12 might suggest that "additional experience" must come after graduation from the engineering program; however, then one must also assume that the experience must come after the examinations because of the order listing in the Act. The Board does not believe this was the intent of the Legislature and the Act would be in conflict with its other requirements.

The Board also believes the language implies that education should not be counted as experience and that this implication is reasonable.

C. Possible Solutions and Impact

Recommendation: Change the wording of the section from "additional" to "at least."

Impact: This recommendation would parallel the language of 12(a)(2) of the Act and clearly allow the Board to evaluate those applicants with some record of experience prior to graduation. Since the Act requires four years of experience prior to authorization to take the Principles and Practice of Engineering examination, this recommendation would allow some applicants to use summer and cooperative education experience toward creditable experience for licensure. As a consequence, those applicants may be able to take the examination earlier. This change in wording will allow the highly experienced professional engineers on the Board to effectively perform their responsibilities and use their professional judgment to evaluate an applicant's qualifications.

Policy Issue No. 3

A. Brief Description of Issue

Policy: Eliminate "character only" references from the application requirements.

B. Discussion

In Section 13(a)(5) of the Act, five references are required, three of which must be professional engineers and have knowledge of the applicant's engineering experience. The three professional engineer references must also vouch for the applicant's character as well as engineering experience. The "character only" references do not necessarily add substance to the evaluation process since the character evaluation is also part of the engineering evaluation. This policy issue was identified during the MAS audit of the licensing division and included for discussion.

C. Possible Solutions and Impact

Recommendation 1: Reduce the minimum number of references needed from five to three in Section 13 of the Act by eliminating the need for additional character references.

Impact 1: This recommendation would eliminate duplicative efforts in the application process and reduce the agency's paperwork. As currently required, the applicant might still need more than three references to cover the minimum number of years required to apply; however, this action would reduce the paperwork for a majority of the applicants.

Recommendation 2: Remove the fixed number of references from the Act and allow the Board to determine the number of references required to carry out the mission of the agency.

Impact 2: This recommendation would allow the Board the flexibility to increase or decrease the number of references required to determine applicants' qualifications. The number of references would be prescribed in the Board Rules and subject to change if the need arose.

Policy Issue No. 4

A. Brief Description of Issue

Policy: Can the intra-agency career ladder program be removed?

B. Discussion

The agency follows the intra-agency career ladder program and it is included in the agency's personnel policies and procedures handbook. However, the Executive Director believes this directive slows down the process of hiring qualified people for non-entry level positions and prefers to have the ability to post "internal" or "external" depending on the needs of the agency and the qualifications of employees. Posting a position externally does not prohibit a current agency employee from applying if they think they meet the qualifications. Also, this is a small agency with only 25 FTE positions.

C. Possible Solutions and Impact

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Recommendation: Remove the statutory requirement for intra-agency job vacancy postings and allow the Executive Director the flexibility to evaluate current staff and post job vacancy notices accordingly.

Impact: This recommendation would allow agency leadership the flexibility to promote within or post outside the agency without an automatic delay in the process if talents from outside the agency are required. This action would not exclude a current employee from applying for a vacant position.

Policy Issue No. 5

A. Brief Description of Issue

Clean-up: The financial receipts and disbursements authority must be updated to conform to the current state financial provisions.

B. Discussion

Section 9, Receipts and Disbursements and Section 13B, Increase in Fees are not consistent with current statutes. The Professional Engineers' Fund was abolished as a result of the Funds Consolidation Act of 1995, and all fees are deposited into the General Revenue Fund. Likewise, the Foundation School Fund was abolished, and the entire professional fee is deposited into the General Revenue Fund. In addition, the Executive Director currently serves in the capacity as the past "Secretary of the Board." The language in the Act is not current with the agency's organizational structure.

C. Possible Solutions and Impact

Recommendation: Correct the authority in the Act to reference the correct funds and change "Secretary of the Board" to "Executive Director."

Impact: No fiscal or policy changes are expected from this clarification.

Policy Issue No. 6

A. Brief Description of Issue

Clean-up: Replace the title "Engineer-in-Training" with "Engineer Intern" in Section 12.1 of the Act.

B. Discussion

The National Society of Professional Engineers has approved a resolution to eliminate the term Engineer-in-Training and replace it with the term Engineer Intern. This action is consistent with terms and practices of the National Council of Examiners of Engineering and Surveying who provide the professional examinations and maintain qualification information on engineers nationwide. In the profession, the term Engineer-in-Training has been considered "archaic" and not appropriate for those who have qualified for and passed the national Fundamentals of Engineering examination.

C. Possible Solutions and Impact

Recommendation: Change the term "Engineer-in-Training" to "Engineer Intern" in Section 12.1 of the Act.

Impact: This change will impact the agency minimally in changing forms and other printed material.

Policy Issue No. 7

A. Brief Description of Issue

Clarification: Section 13(a)(4) of the Act requires the applicant submit a statement describing any criminal offenses of which the applicant has been convicted.

B. Discussion

The Act requires information be submitted concerning any criminal convictions. Section 53.021 of the Occupations Code states that "a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation." In Section 53.022. Factors in Determining Whether Conviction Relates to Occupation, the code instructs the licensing authority to consider:

(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
(3) the extent to which a license might offer the opportunity to engage in further criminal activity; and
(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

In light of the authority of Section 53, only convictions that are felonies or misdemeanors related to the practice of engineering or professional ethical behavior are applicable to denying a license. Other misdemeanors should not be necessary to evaluate the application.

C. Possible Solutions and Impact

Recommendation: Refer to the Occupations Code, Section 53, in the Act when requiring convictions to be listed.

Impact: Persons believe that they cannot be licensed if they have a criminal conviction, when, in fact, the Board is only concerned with the items listed in the Occupations Code, Section 53. Clarifying this language would not discourage those persons with misdemeanors in irrelevant areas from applying for licensure as professional engineers. However, this recommendation would not allow the Board to evaluate and decide whether a conviction may apply to the licensed occupation but leaves it up to the individual applicant to decide.

Policy Issue No. 8

A. Brief Description of Issue

Clarification: Can the agency charge fees that are not listed in Section 13 of the Act for services that are generally accepted accounting practices, such as returned check fees, out-of-state examination proctor fees, and other miscellaneous service fees?

B. Discussion

Section 13 lists eight fees associated with administering the Act. However, the language of the Act does not appear to limit the agency to collecting only the listed fees to administer the Act. The new General Appropriations Act requires that state agencies, including the Board, generate enough money to cover all of their appropriations, including indirect administrative costs (see Section 2 at the end of Article VIII of the GAA). Past versions of the GAA have required each agency to review its fees on an annual basis and to assure that the fees cover the costs of all services provided by the agency. The TBPE currently assesses penalty fees that are authorized by Section 16(c) of the Act; however, penalty fees are not mentioned in Section 13. The language of the statute indicates that the Section 13 list is not intended to include each and every fee the agency may collect. Section 8 of the Act provides the Board with general authority to establish rules necessary to the performance of its duties; therefore, it seems that the establishment of reasonable and necessary fees for administrative services should be authorized by this general grant of authority. The Self-Directed Semi-Independent Agency Project Act specifically authorizes the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas State Board of Public Accountancy to set fees by statute or rule as necessary to carry out their functions (see Section 14 of the Self-Directed Semi-Independent Agency Project Act).

C. Possible Solutions and Impact

Recommendation: Include language in Section 13 to clarify the Board's authority to assess reasonable fees to administer the services required by the Act.

Impact: This recommendation would clarify and clearly give the Board authority to charge reasonable fees for services that are based on generally accepted accounting practices, such as returned check fees, out-of-state examination proctor fees, and other miscellaneous administrative fees. The burden of such costs is currently incurred by all licensees. The agency believes that costs for services beyond the normal business routine should be incurred by those individuals directly affected by the services.

Policy Issue No. 9

A. Brief Description of Issue

Policy: Should the Board create an "inactive" or "registration only" status for licensed engineers who no longer offer the "practice of engineering" to the public.

B. Discussion

The Act currently provides for reduced renewal fees for licensed engineers who are at least 65 years of age and for licensed professional engineers who are exempt from licensure under Section 20(a)(5) or (6) but do not claim the exemption or are disabled based on the provisions of Section 13(e). If a licensed engineer changes careers, suspends a professional career to raise a family, has an early retirement, moves out-of-state, or similar situation and no longer is engaged in the practice of engineering for the public, the options are to continue paying the full annual renewal fees or discontinue the license. Since the engineer is no longer practicing engineering and serving in that professional capacity in Texas, the agency believes a reduced fee would encourage the licensed engineer to retain "professional recognition" in the profession and his/her license status preserved as "inactive." If such engineer wanted to return to active practice, then the engineer would need to notify the Board of such action and pay the appropriate fee.

C. Possible Solutions and Impact

Recommendation: Create an "inactive" status with fee for licensed engineers who are not actively practicing engineering for the public.

Impact: Approximately 1,500 licenses are dropped each year. An "inactive" status might encourage this group to remain "licensed" with the agency. Fiscally, the creation of "inactive" status should not impact the total professional fee collected by the state because it is presumed that those who might elect "inactive" status would otherwise have dropped their license entirely. If such an arrangement as "inactive" status could occur, reinstatement could occur more quickly. The reinstatement fee might be set at such a level to compensate for a portion of the lost state revenue from the suspended professional fee.

Policy Issue No. 10

A. Brief Description of Issue

The National Council of Examiners for Engineering and Surveying has changed the examination procedures and the review and analysis of an examination is no longer available for multiple-choice examinations.

B. Discussion

Section 14(c) concerning examinations, allows for a person who has failed the examination to request an analysis of his/her performance on the examination. In October 2000, a majority of the examinations were converted to multiple choice type tests. Only examinations in the mechanical, electrical, and Structural II and III are essay style examinations, but will soon be reformatted to a multiple choice type test. With this change, NCEES has developed policies prohibiting the review and regrading of the examinations to ensure the examinations' integrity and to prevent cheating. Understandably, NCEES does not wish to develop a new test for each testing cycle although some parts of the tests will be updated periodically.

C. Possible Solutions and Impact

Recommendation: Remove this clause from the Act and allow the Board the discretion to allow analysis and review of examinations in the Board Rules.

Impact: This recommendation allows the Board the flexibility to modify the policies and procedures of the examination process to be consistent with the national testing service and could easily occur by simply changing the language for Section 14(c) from "shall" to "may."

Policy Issue No. 11

A. Brief Description of Issue

Clarification: Should the Board continue to notify all examinees via mail if the scores are not received from NCEES within 90 days of the examination date?

B. Discussion

Section 14(b) of the Act requires that, "if the examination is graded or reviewed by a national testing service, the Board must notify the examinee within two weeks of receiving the examination results and no longer than 90 days after the examination was administered. If the results are delayed, the agency must notify the examinee of the reason for the delay." The agency believes this provision poses an unnecessary burden on it without any real benefit or gain. This directive in the Act oversees an administrative function that requires interaction and coordination with other entities and could be better served without these restrictions. The agency can achieve notifications to examinees with online computer notice of the reporting schedule.

In the current arrangement, the Board must first receive the data from the National Council of Examiners for Engineering and Surveying and have that information transferred into the agency's existing database by the administrator of our computer database. The agency works closely with its database administrator; however, the process requires debugging and a verification of the data prior to releasing the information. For the fall examination results, this information often arrives during the holiday season, and the agency sometimes experiences delays in uploading the information and disseminating scores to the examinees.

C. Possible Solutions and Impact

Recommendation 1: Allow for any examination result schedule and delay explanations to be posted on the agency's Web site.

Impact 1: This recommendation would reduce postage and frees up staff time that would be used to prepare and mail notices. It also allows more staff time to coordinate with the database administrator for faster dissemination of test results.

Recommendation 2: Remove two week notification requirement or extend period to allow for interaction with other state agencies and move such performance standards to the Board Rules.

Impact 2: Allow the Board to develop responsible rules to inform persons of examination results in a timely manner.

Policy Issue No. 12

A. Brief Description of Issue

Policy: Should the Act define a particular construction cost threshold or other criteria for evaluating which public works require professional engineering services?

B. Discussion

The Act requires a licensed professional engineer to plan and execute public works when the construction cost of the public works project exceeds a certain threshold. This amount is $8,000 and was last adjusted in 1989. The Board requests authority to develop and establish these criteria in the Board Rules. Cost may not be a good tool. The same public works building costing $7,995 could end up costing $18,995 depending on the quality of construction materials used, which has nothing to do with the engineering or safety to the public. The Board believes a better approach may involve tiered criteria that could include, but may not be limited to, project cost, public exposure or impact, and project complexity and involvement with codes and regulations.

C. Possible Solutions and Impact

Recommendation 1: Change from listing actual construction cost thresholds in the Act to granting the Board authority to establish criteria in the Board Rules to determine when a professional engineer would be required in a public works project.

Impact 2: This recommendation would allow the Board to develop an alternative, yet practical, approach to evaluating when public works need and demand professional engineer services.

Recommendation 2: Change from listing actual construction cost thresholds in the Act to granting the Board authority to establish cost thresholds in the Board Rules.

Impact 2: Following this recommendation would allow the Board to periodically evaluate the construction cost threshold and adjust it to reflect present-day values.

Policy Issue No. 13

A. Brief Description of Issue

Policy: Exemptions from licensure interpretations appear to have amplified beyond their original intent. Do the licensure exemptions in the Act serve to uphold public health, safety and welfare?

B. Discussion

The current language in Section 20 exempts certain persons from the licensure provisions of the Act. National figures suggest that 75-80 percent of those who graduate with engineering degrees perform engineering work that is exempt from the practice acts. The Board continually is asked to interpret the exemptions and determine the intent behind each. Although it has not been determined in a court of law, the Board believes the exemptions should be limited to persons not responsibly in charge. If an industry, utility, university, etc., person is held responsibly in charge and engages in the practice of engineering with the public, the Board believes that person should be subject to licensure.

The Board agrees that certain engineering positions should and can be exempt from licensure. Most of these positions are assumed to somehow be under the supervision or management of a licensed professional engineer or be in a firm or industry that does not offer the practice of engineering to the public. However, the Board believes that the existing language of the exemptions has complicated the interpretation of the exemptions and may jeopardize public health, safety and welfare.

A current example has been the construction of telecommunication underground utilities that compromise public streets, waterlines and other utilities. These companies claim either the privately owned utility exemption or telephony exemption. Past practices have allowed persons performing similar activities to be exempt from the licensure requirements. However, the Board believes these exemptions were never intended to exclude the engineering planning and design of civil works associated with these types of installations and requests clarification of the exemptions. The utility exemption was written in a different era. Previously, the Act might be read to allow exemption from licensure when a utility practices engineering on its own property or on city or state rights-of-way as authorized by city, county, or state statutes and when using longstanding drawings bearing the signature and seal of the professional engineer.

Another example of vague and confusing language of the Act is Section 20(g) which reads: "*A person who claims an exemption from this Act under Subsection (a)(5) or (6) of this section who is determined to have directly or indirectly held the person out as legally qualified to engage in the practice of engineering may not claim an exemption under this section until the 10th anniversary of the date the person held the person out as qualified to engage in the practice of engineering.*" Section 20(a)(5) and (6) (as stated below C.) do little to clarify this provision. Section 20(g) is very hard to understand. The Board deduces that the language of (g) refers to the phrase "*does not have the final authority for the approval of, and the ultimate responsibility for engineering designs*" in both Section 20(a)(5) and (6). However, the awkwardness of the paragraph does not aid in this interpretation nor clearly define the intent of the Legislature.

The above discussion are only two examples of issues with the exemption classification and are not intended to limit any discussion just to these two subsections. The Board would suggest that all of Section 20 be reviewed and clarified.

C. Possible Solutions and Impact

Recommendation 1: Clarify the intent of the exemptions with clearer language by revising this section of the Act.

Impact 1: Board will be able to develop policies and provide guidance within its authority.

Recommendation 2: Review, evaluate, and remove the exemptions that are unclear, out-of-date, or too vague to regulate.

Impact 2: This recommendation would encourage the focus on the intent of exemptions in light of protecting public health, safety and welfare and allow the agency to better serve the public. The Board believes Section 20, Subsections (f) and (g) fall into this category needing clarification or removal.

Recommendation 3: Allow for the exemptions; however, require registration of all exempted persons for a nominal cost.

Impact 3: This recommendation would allow the Board access to or contact with all engineers practicing in the state to better inform them of rules and regulations, address issues within the profession, and further encourage licensure.

Recommendation 4: Remove exemptions from the Act and require all practicing engineers to be licensed.

Impact 4: Although a possible alternative, this recommendation does not appear to be practical and would pose an almost impossible burden on the agency.

Sections 20(a)(5) and (a)(6):

Section 20(a)(5): any regular full time employee of a private corporation or other private business entity who is engaged solely and exclusively in performing services for such corporation and/or its affiliates; provided, such employee's services are on, or in connection with, property owned or leased by such private corporation and/or its affiliates or other private business entity, or in which such private corporation and/or its affiliates or other business entity has an interest, estate or possessory right, or whose services affect exclusively the property, products, or interest of such private corporation and/or its affiliates or other private business entity; and, provided further, that such employee does not have the final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications pertaining to such property or products which are to be incorporated into fixed works, systems, or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public;

Section 20(a)(6): any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affiliates; provided, that such employee does not have the final authority for the approval of, and the ultimate responsibility for engineering designs, plans or specifications to be incorporated into fixed works, systems or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public;

Policy Issue No. 14

A. Brief Description of Issue

Policy: Can the protection of public health, safety and welfare of Texas be strengthened with a peer review process for enforcement matters?

B. Discussion

Engineering is a complex subject with many disciplines. The Board currently contains six professional engineer members who must evaluate and determine whether certain engineers have violated the Act. This arrangement does not necessarily provide for the best review since the Board members may have little or no expertise in the area of concern. The Act does not currently protect or give immunity from civil actions for any engineers who serve the Board as a technical expert witness or evaluator. As a consequence, it is difficult to fully ensure the public is truly protected from incompetence and poor ethical behavior in complex cases.

By allowing a peer review process, the Board and State of Texas can provide civil immunity to a professional engineer or panel of engineers or other specialists for their assistance and expertise in enforcement matters. This process has successfully been implemented in Arizona.

C. Possible Solutions and Impact

Recommendation: Grant the Board authority to have a peer review process, which will give civil immunity to those professional engineers and specialists who assist in enforcement cases.

Impact: Increase technical knowledge base for complex engineering issues.

Policy Issue No. 15

A. Brief Description of Issue

The Act does not currently contain provisions for a mandatory Continuing Professional Competency (CPC) program.

B. Discussion

Engineering is a complex, dynamic profession. The Board believes a licensed professional engineer should remain current in engineering developments and refresh skills. Section 8(c) of the Act allows a CPC program; however, it also makes such a program voluntary. The Board hosted a voluntary CPC program, which expired in June 2001. The 77th Legislature passed SB697, which would have authorized the Board to have a mandatory program; however, the Governor vetoed the bill.

The Board believes that a mandatory CPC program is important for maintaining high professional competency and that such a program should contain elements of seminars, courses and classes, not just self-study activities.

C. Possible Solutions and Impact

Recommendation: Include a Section in the Act to allow the Board to develop a mandatory Continuing Professional Competency program.

Impact: This recommendation supports implementation of a mandatory CPC program that has the potential to enhance the profession by requiring licensed professional engineers to maintain expertise in engineering developments and refresh skills. For the agency, this recommendation would require planning to develop, administer, and maintain the program, which would necessitate reallocating or additional resources.

Policy Issue No. 16

A. Brief Description of Issue

Policy: Must the Board collect the $200 professional fee or can this fee be administered through another state agency?

B. Discussion

Currently, Section 13B(b) of the Act requires the license fee, annual renewal fee, and reciprocal license fee to be increased by $200. The regulated community does not distinguish this professional fee from the licensing and renewal fees. This combination of fees discourages licensure and creates negative attitudes toward the agency. This fee is a "pass-through" fee that deposited directly into the General Revenue Fund.

C. Possible Solutions and Impact

Recommendation: Remove the processing of this fee from the agency and require submittal directly to the Comptroller.

Impact: This recommendation would place the burden of processing, monitoring, and payment enforcement of the professional fee on another state agency. The separation of the fee from licensing and renewal fees would improve the Board's image with the regulated community.

Policy Issue No. 17

A. Brief Description of Issue

Policy: Allow all qualified persons to apply for licensure.

B. Discussion

The Act has separate requirements and processes for non-resident applicants. Section 21 allows for a non-resident that is licensed in another jurisdiction to apply for licensure in Texas, provided that the applicant meets the minimum requirements of Section 12(a). However, the statute does not specifically limit original licensure to Texas residents and only implies this restriction. "Original" in this sense means the first license to practice as a professional engineer acquired from any jurisdiction.

The Board believes that "residency" or other jurisdiction requirements should not restrict a qualified person from obtaining an engineering license if they wish to practice engineering in Texas. Each applicant must meet the requirements of Section 12. General Requirements for Licensure and be determined of acceptable character and competency as required by the Act and Board Rules.

C. Possible Solutions and Impact

Recommendation: Clarify the language of the Act to remove jurisdictional restrictions. Section 21. Licensure for Nonresidents could be modified to state that, "persons from another jurisdiction may apply for licensure in this state."

Impact: The recommendation would serve to increase the number of potential applicants. The program integrity remains intact, as the applicants must meet the minimum requirements as specified in the Act. A key concern about this issue is that, according to the Mutual Recognition Document for national mobility, those persons applying from outside the United States must be licensed in their own jurisdiction.

Policy Issue No. 18

A. Brief Description of Issue

Clean-up: The fee limit of Section 13(b)(7) for the examination fees is insufficient to pay for the Structural II and III examinations.

B. Discussion

The fee limit is currently sufficient to set examination fees to cover the purchasing, grading and administrative costs of all examinations, except the Structural II and III examinations. However, the examinations are purchased from a national testing service and the Board requires the flexibility to adjust the examination fee if the actual cost of the test increases, as in the cost of the Structural II and III examinations. The current cost for these examinations is $400; therefore, the Board must charge the examinee $200 for the morning session and $200 for the afternoon session in order to recover its cost to

purchase and grade these examinations. At the current statutory fee schedule, the agency cannot recover its administrative costs from the examinees.

C. Possible Solutions and Impact

Recommendation: Since the actual cost of examinations is set by an outside entity over which the agency has no control, the limitation on examination fees should be removed.

Impact: This recommendation would allow the Board to responsibly set the examination fees and allow the flexibility to charge examinees for the full cost of the examinations if the national testing service raises the price for these services. Also, if the Board decides that it is more efficient, effective, or increases examination security to outsource the examinations, it would have the flexibility to do so.

Policy Issue No. 19

A. Brief Description of Issue

Policy: Develop practice review process to use for professional development or additional certification of professional competency or to use as a proactive enforcement tool to randomly select licensed professional engineers to review for compliance with applicable codes and competency within discipline.

B. Discussion

The British Columbia Professional Engineers and Geoscientists in Canada have a practice review program that is intended to be an educational and professional development process for the benefit of those practicing professionals in the jurisdiction. The program also serves as a quality assurance check on members' practices. A similar program in Texas could benefit the engineering profession by increasing the professional accountability and contributing to professional development. The program could be implemented several ways: as a random audit of licensed engineers, as a request from a licensed engineer to review an existing practice, or as an enforcement tool to review questionable engineering practices or those who have been disciplined. This program could also be used as a tool to confirm a person's "exempt" status from the licensure requirements of the Act.

C. Possible Solutions and Impact

Recommendation: Implement a program of practice review by giving the Board authority to implement such a process.

Suggested language: *By means of a practice review process, the details and implementation of which shall be authorized by the Board, the Board may cause the professional practice of licensed engineers and registered firms to be reviewed.*

Impact: The overall impact would be increased professional engineer accountability and development. The agency would require additional staff or reallocation of staff to develop, implement, and support such a program.

Policy Issue No. 20

A. Brief Description of Issue

Policy: Should the Board establish certification programs for specialty areas within each discipline?

B. Discussion

The field of engineering is complex and dynamic. Each year, new technologies emerge increasing the complexity and breadth of knowledge necessary to be competent in any area. The basic disciplines no longer adequately describe a person's qualifications. The basic disciplines of yesteryear are being divided and subdivided into specialty areas of concentrated focus. Engineering educational institutions are faced with updating curriculums to keep up with rapid technological changes, yet are being limited in the number of credit hours to define a degree, so a person may not gain the advanced knowledge associated with past curriculums. If the Act mandates that any public work over a certain criteria threshold involve the services of a professional engineer, how does an entity identify and obtain the services of the engineering lighting specialist, the airport lighting specialist, the pipeline distribution engineer, and other engineers specializing in precise areas within the profession?

How does the Board embrace this progression? One idea is to initiate specialty certification that identifies a professional engineer's area of expertise to the public. A certification program would require a method for evaluating and/or testing persons to determine competence in the specialty areas. Other professionals, such as medical doctors, train and are certified in specialty areas, which aid to better serve the public; the Board believes engineering specialty certification would likewise benefit the public who requires those specific services. As with any new venture, the Board believes that a feasibility study and further research would be necessary prior to implementing such a program.

C. Possible Solutions and Impact

Recommendation: Authorize the Board the flexibility to incorporate a program to evaluate and certify persons who wish to be identified as specialists within the practice of engineering.

Impact: This recommendation would benefit those requiring engineering services by more readily identifying those licensed professional engineers with advanced training and certification in specialty areas. This initiative would require the agency to develop the program and evaluation criteria and, if feasible, acquire or adjust its resources to implement and maintain the program.

Policy Issue No. 21

A. Brief Description of Issue

Policy: Should the Board adopt a reinstatement fee for an expired license?

B. Discussion

Section 16 of the Act gives the Board the authority to renew a license anytime within two years of expiration. This renewal includes a variable late penalty fee that is dependant on how long the license has been expired and when the renewal was remitted. If the license is not renewed within two years, the person must reapply for a license under the provisions of the Act at the time of application. Failure to renew can be for several reasons. Commonly, the professional engineer fails to notify the agency of his or her current address as required by law and, thereby, fails to receive the renewal notification.

As an alternative, the Board would propose that a reinstatement fee be added to the Act that would serve as a significant penalty fee for those professional engineers who have let their license expire but would like to return to active status without reapplying. The delinquent engineer benefits from not needing to go through the licensing process again and the agency would benefit, as this avenue would be more administrative and not require the in-depth technical evaluation used in the licensure process. The Board feels this reinstatement privilege should be worth between $500 and $1,000.

C. Possible Solutions and Impact

Recommendation: Include a reinstatement provision (with penalty fee) in the Act.

Impact: Quarterly, approximately a dozen delinquent engineers approach the Board concerning non-renewable licenses. The Board has no alternative but to advise them to reapply. This recommendation would offer an alternative.

Policy Issue No. 22

A. Brief Description of Issue

Policy: Should renewals be changed from an annual to biennial basis?

B. Discussion

Section 16 of the Act sets the renewal schedule for licenses and firm registrations. This schedule is currently based on an annual renewal. Many other states have renewals based on a two-year cycle. However, the professional fee mandated in Section 13B of the Act would raise the two-year renewal fee to $460, which the Board believes would deter registration rather than promote it. Another consideration is that the Act requires firm registration, including sole proprietors. If the renewal schedule was moved to a two-year basis, the sole proprietor would be required to renewal the actual license ($460) and the firm registration ($150) for a total fee of $610. Another concern is that changing this schedule would result in major funding issues since the Board's financial structure is based on an annual schedule.

C. Possible Solutions and Impact

Recommendation: Do not change the renewal schedule.

Impact: The Board believes that the existing schedule is sufficient and changes to the schedule would not benefit the agency nor the regulated community.

Policy Issue No. 23

A. Brief Description of Issue

Clean-up: Is it necessary for application forms to be furnished by the Board only?

B. Discussion

Section 13(a) of the Act currently states that "applications for licensure shall be on forms prescribed and furnished by the Board." The Board believes that other existing forms are acceptable for licensure in most cases. Particularly, the NCEES records that an applicant could supply have generally the same information as the Board forms but are in a different format. The NCEES program maintains a national file for those who expect to practice in more than one jurisdiction and allow transfer of official or otherwise verified document to state boards. The Board also prefers the existing format of the application; however, it is willing to accept comparable forms with the necessary information to qualify an applicant.

C. Possible Solutions and Impact

Recommendation: Remove "and furnished" from Section 13(a).

Impact: This recommendation allows the Board flexibility to prescribe the forms needed to evaluate an applicant, without furnishing the forms. This would allow the Board to accept NCEES or other records that contain the information necessary for licensure and also allow an applicant to use existing documentation. The Board would expect this action to speed up the licensure process for those with NCEES records.

Policy Issue No. 24

A. Brief Description of Issue

Clean-up: Establish a firm annual renewal fee consistent with the firm registration fee.

B. Discussion

Section 13 and Board Rule 131.143 authorize the Board to charge fees for firm registration and firm registration renewal. However, Section 13 does not specifically list firm renewal fees as one of the fees although the Board believes it is the intent of the Act for the renewal fee to be the same as the registration fee.

C. Possible Solutions and Impact

Recommendation: Clarify Section 13(b) to include a firm annual renewal fee.

Impact: This recommendation serves to clarify the intent of the Act and clarify the Board's authority to set the firm annual renewal fee.

X. Comments

The agency recognizes that the goal of the Sunset Review is to evaluate the Texas Board of Professional Engineers to determine that the Board accomplishes its mission and should continue its existence as provided by the Government Code, Chapter 325. In the preceding section on Policy Issues, the Board has addressed suggested clean-up, clarification, and policy changes to the Act to improve service to the public and regulated community. The Board and agency staff are available to clarify, discuss, and expand on any of the presented issues and any other issues identified by the public, Sunset Commission, or outside stakeholders. To aid the upcoming Legislature, the Board offers its resources to help organize and draft new or improved language for the Texas Engineering Practice Act to enhance the agency's ability to regulate the engineering profession and to ensure the public's health, safety, and welfare in professional engineering matters.